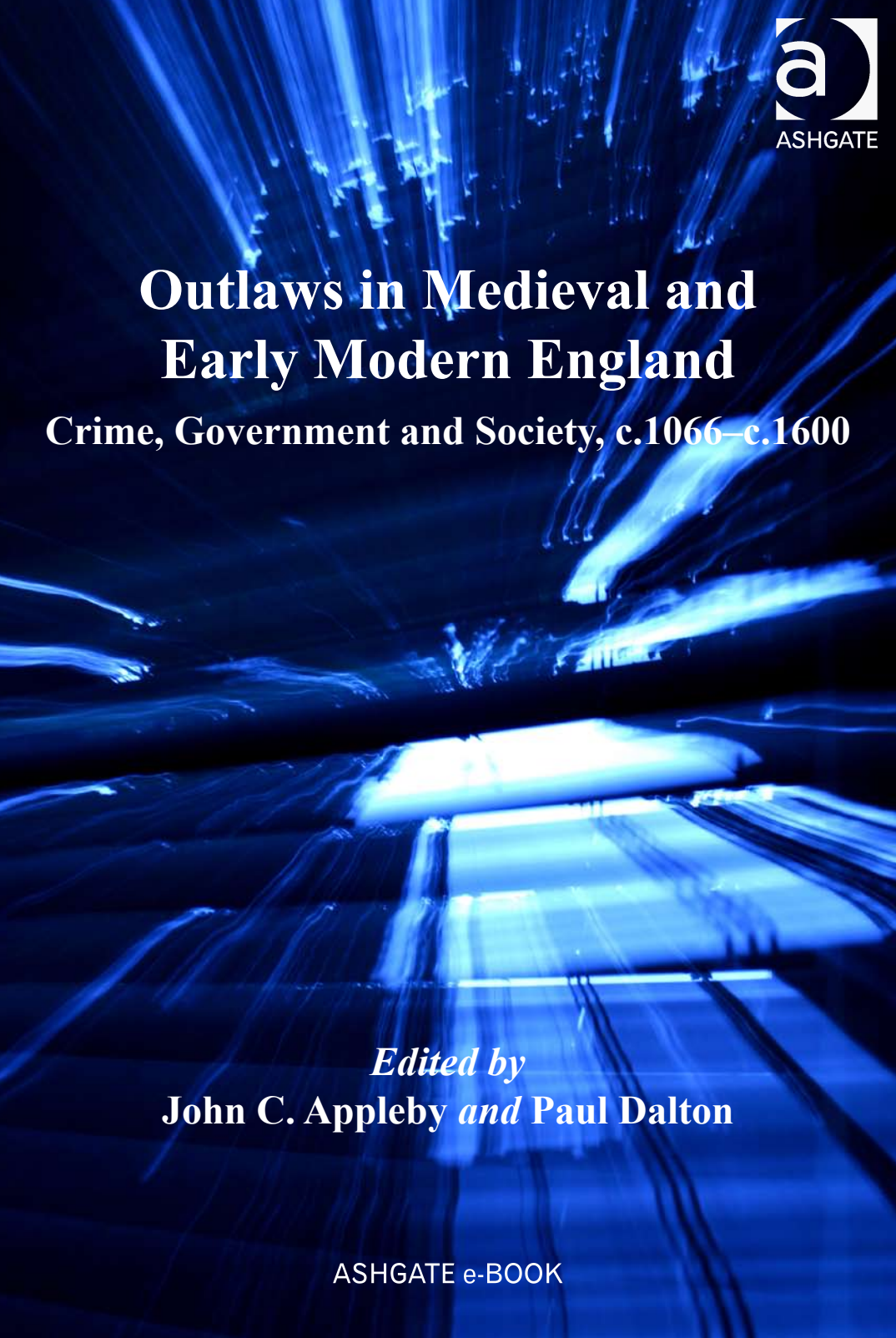
ASHGATE
Outlaws in Medieval and Early Modern England
Crime, Government and Society, c.1066–c.1600
Edited by
John C. Appleby and Paul Dalton
ASHGATE e-BOOK

OUTLAWS IN MEDIEVAL AND EARLY MODERN ENGLAND

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Outlaws in Medieval and Early Modern England

Crime, Government and Society, c.1066–c.1600

Edited by
JOHN C. APPLEBY AND PAUL DALTON
Liverpool Hope University and Canterbury Christ Church University UK

ASHGATE

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Preface

This volume originated in discussions between the editors in the late 1990s, when they were colleagues at Liverpool Hope University. Both were agreed that, despite the considerable scholarly attention which has been devoted (for example) to individual outlaws such as Hereward 'the Wake' and Robin Hood, to English constitutional and legal history, and to some of the popular literature written about medieval and early modern criminals, as a whole the subject of outlaws and outlawry in the period *c*.1066–*c*.1600 has been, to some extent, comparatively neglected by historians and deserves fuller investigation. This volume is intended as a contribution to such an investigation. The editors are very grateful to the scholars who have written its chapters, not only for their valuable work but for their patience, courtesy and understanding. We offer them our warmest thanks. We are also very grateful to Ashgate Publishing for accepting the volume for publication, and in particular to Tom Gray, Nicholas Wain, Mary Murphy, Anne Keirby and their colleagues for their help and patience in seeing it through the press. Our thanks also go out to our employers, Liverpool Hope University and Canterbury Christ Church University, for their support and for recognising the value and importance of historical research; and to the Master and Fellows of Corpus Christi College, University of Cambridge, for permission to use the image of William de Marisco on the cover of the volume.

John C. Appleby and Paul Dalton
Liverpool and Canterbury, June 2008

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Abbreviations

APC	*Acts of the Privy Council 1542–1604*, ed. J.R. Dasent (31 vols, London, 1890–1907)
BL	The British Library, London
CCR	*Calendar of the Charter Rolls 1226–1516* (6 vols, London, 1903–27)
CFR	*Calendar of the Fine Rolls 1272–1347* (5 vols, London, 1911–15)
CPR	*Calendar of the Patent Rolls 1258–1485* (49 vols, London, 1901–10)
CR	*Close Rolls of the Reign of Henry III 1227–1251* (14 vols, London, 1902–38)
CSPD	*Calendar of State Papers Domestic 1547–1603*, ed. R. Lemon et al. (7 vols, London, 1856–71)
CSPF	*Calendar of State Papers, Foreign Series, of the Reign of Elizabeth 1558–89*, ed. J. Stevenson et al. (23 vols, London, 1863–1950)
CSPI	*Calendar of State Papers Relating to Ireland 1509–1603*, ed. H.C. Hamilton et al. (11 vols, London, 1860–1912)
EHR	*English Historical Review*
n.s.	new series
ODNB	*Oxford Dictionary of National Biography*, ed. H.C.G. Matthew and B. Harrison (60 vols, Oxford, 2004)
TNA	The National Archives, Kew
VCH	*The Victoria History of the Counties of England*

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Introduction

John C. Appleby and Paul Dalton

This volume addresses significant aspects of organised criminality and outlawry, and the governmental and social responses they provoked, during the period from *c*.1066 to *c*.1600. These activities were features of a complex problem that was legal, social and political in nature. They reveal the interplay between lawlessness and disorder which central and local institutions and their officials struggled to control. At various times, in different locations and in diverse ways, crime and outlawry powerfully influenced state, church and community attitudes, responses and policies. Collectively, the following chapters illuminate the extensive diversity of criminal activity and the responses to it during the period under consideration. Within varied contexts, and from different perspectives, they demonstrate the insecurity, vulnerability and limitations of the law and the government machinery that enforced it. These limitations were particularly evident in times of political and military crisis and tension, in remote or inaccessible regions, and in circumstances where the state was heavily dependent on local officials, had to compromise with the interests of local elites and the church, or was confronted by the activities of criminal gangs and predatory troops. The contributions to this volume also comment revealingly on the multi-faceted nature and purposes of criminality, and on the socially and politically charged representation of it in the rich tradition of outlaw stories and legends that endured throughout and beyond this period. Together, the chapters show that the boundaries between law and criminality, order and disorder, peace and violence, and lawlessness and civil conduct were frequently blurred and shifting, and could sometimes be inverted: a development reflected in the appearance of the 'good outlaw' and the 'evil sheriff' as stock figures in popular outlaw literature.

The most famous of these good outlaws was, of course, Robin Hood, whose activities are usually set within a thirteenth- or early fourteenth-century context. But Robin was foreshadowed, in some ways, by a late eleventh-century outlaw, Hereward 'the Wake', a real historical figure who has been described as 'the lineal ancestor of the later English outlaws'.[1] Hereward, an Anglo-Saxon landholder who joined an English rebellion against William the Conqueror in 1071, became the focus in the twelfth century of literature, heavily influenced by romantic and heroic conventions, that did much to establish his legend. By investigating the companions and enemies of Hereward named in this literature, Paul Dalton

[1] M. Keen, *The Outlaws of Medieval Legend* (London, 1977), p. 11, and see pp. 23–4, 37–8.

underlines in Chapter 1 that some of them were real historical people and had plausible historical connections with the outlaw. In the process Dalton reveals more about Hereward and his associates, reinforces the contention that some of the more questionable twelfth-century literature about Hereward contains important elements of truth, and suggests that some of it was influenced by political conflicts in King Stephen's reign (1135–54). Dalton's conclusions have implications for our knowledge and understanding of the Norman Conquest, the nature of political and tenurial conflict in the century after 1066, and the development and function of Hereward's legend.

According to some of the sources for Hereward's life, he was made an outlaw for unruly behaviour, forced to go into exile, and fled the country. He was a precursor of several of the thirteenth-century outlaws examined in Susan Stewart's essay (Chapter 2), which employs the rich and under-utilised judicial eyre records to consider the use of outlawry as a penalty for felony in this period. Stewart reveals that a significant number of those accused of felony absconded rather than appear before the royal courts to answer charges, and were declared outlaws by the justices. The chapter explores and elucidates the harsh personal and proprietorial implications of being branded an outlaw, and the legal consequences of harbouring or aiding outlaws. It also considers how those with influential patrons or who could claim benefit of clergy might escape, in some measure, the penalties imposed by the law. Stewart goes on to discuss what the judicial records reveal about the different status of women under the law and the limitations of their rights of appeal; and to examine what these records tell us about outlaws who sought sanctuary and subsequently abjured the realm. Stewart's contribution also includes a valuable assessment of the effectiveness of outlawry as a judicial tool, concluding that, 'while local communities remained stable and able to identify their wrongdoers, the penalty of exclusion through the process of outlawry was a reasonable solution'.[2] However, towards the end of the thirteenth century growing levels of crime, due in part to demographic changes and gangs of discharged soldiers, put increasing pressure on the system of judicial eyres. Consequently, the system was superseded by new and more financially productive structures of civil and criminal litigation, and finally abandoned. Concurrently, changes in attitudes towards outlawry and the difficulty of enforcing it, combined significantly to limit its effectiveness in dealing with criminal activity.

The efficacy of law enforcement and its local administration also features prominently in Chapter 3 where Richard Gorski appraises the subject within the context of the fourteenth century and provides an important complement to Stewart's contribution. Examining the evolution of shire government from the perspective of the sheriffs, Gorski reaches a cautious, but positive, conclusion concerning the critical relationship between the crown and its local agents, and shows that the potential void that threatened to emerge with the abandonment of the general eyre at the end of the thirteenth century was filled by sessions of

[2] See p. 53 below.

assize and commissions of oyer and terminer. But these developments, while widening access to the law, were dependent on the cooperation of landowners who were willing to serve as local officials. Building on detailed research on the sheriffs, Gorski identifies the emergence of a core group of officials who grew accustomed to the responsibilities of office-holding during the fourteenth century. They formed part of a denser web of officialdom which opened up opportunities for fairly humble men as well as for the emerging gentry to participate in law enforcement and administration. Paradoxically, perhaps, the growing importance of local agents was accompanied by a lively literature of complaint directed against evil and corrupt sheriffs. As Gorski notes, such evidence is an uncertain guide to reality, but it can be supplemented by an extensive catalogue of persistent weaknesses and abuses in the administration of law and order. Gorski also suggests that despite this, the partnership between the monarchy and the political community was broadly effective. This was due, in part, to improvements in the quality of law and justice, which were reflected in the increasing scale of gentry participation in shire government.

Another area of the administration of law and order in which the crown was forced to compromise features in the contribution by Candace Gregory-Abbott (Chapter 4). This examines the application of the law to criminous clergy, and the refuge from the law that the church could provide, through sanctuary, to criminals. It also discusses key aspects of the interaction between the church and criminality, demonstrating in the process that some members of the clergy could be active participants in, or passive supporters of, criminal behaviour, including the activities of criminal gangs. Gregory-Abbott's contribution examines, over an extensive period of time, how clergy accused of criminality were dealt with by the law, what happened when they invoked the privilege of benefit of clergy, the meaning, complexity and administration of this privilege, and the nature and operation of ecclesiastical sanctuary rights utilised by some criminals to escape justice. In doing so, it also addresses important areas of legal jurisdiction that were major sources of tension between church and state. Under such conditions the state attempted, from at least as early as the twelfth century and with an increasing measure of success in the later Middle Ages, to shift the boundaries of control in its own favour.

Just as the state was troubled by and had difficulty asserting its jurisdiction over criminous clergy, it also had problems dealing with criminal soldiers. In Chapter 5, a wide-ranging essay that sets the English experience within a much broader European context, Neil Jamieson shows that medieval armies easily served as institutions for widespread and violent criminality. This was, moreover, an enduring and widespread problem. Jamieson provides evidence of the ways in which soldiers were frequently identified as criminals and violent thugs, and explores some of the consequences of their criminality. These included the subversion of the tradition of the virtuous aristocratic warrior, the associated cult of chivalry, and the church's concern to control or limit conflict and violence. The problem owed much to the failure of medieval states to provide adequate

solutions to the problems of supplying armies and dealing with demobilised and unemployed troops. Armies were often identified as the purveyors of trouble and criminal disorder. Soldiers plundered, abused or murdered civilians, who sometimes responded in kind. Nor did the growing professionalisation of armed forces necessarily lead to any improvement. Indeed, it may have reinforced a pre-existing perception that soldiers were outsiders, intent on violence and plunder. The confusion was compounded by the widespread practice of recruiting criminals and outlaws to serve in armies. Despite a rudimentary code of conduct, reflected in rules and regulations, armies remained a source of disorder, which only grew worse with their demobilisation. Jamieson suggests, however, that by the end of the fifteenth century European governments were beginning to bring soldiers under more effective state control.

In the late fifteenth century, as Anthony J. Pollard shows in Chapter 6, the English government had also to contend with the emerging, and sometimes disruptive, political aspirations of the 'middling sort' – yeomen, husbandmen, craftsmen and others in-between the gentry and the peasantry. The relationship between the crown and this increasingly influential element of the political community is examined by Pollard through the lens of the literature about Robin Hood that circulated widely at this time. He considers the political and social meaning of this literature, a subject which has been vigorously debated. Arguing that the social and political tensions of the thirteenth and early fourteenth centuries, in which the Robin Hood stories were set, were no longer relevant to the fifteenth-century audience who read and heard them, Pollard offers a significant challenge to predominant interpretations of these stories. Rejecting views that they represent either a peasant ideology or the outlook of landholders harbouring resentments against the crown, Pollard contends that the stories appealed particularly to, and represented the opinions of, people of the 'middling sort'. At the time, these people enjoyed increasing prosperity, engaged in national politics, participated in the local military, administrative, judicial and fiscal administration of the state, and bore arms. They also took part, on occasions, in protest and rebellion against governments they saw as subverting justice, their rights, the right order of society, and the common weal. Although the Robin Hood stories can be read, at one level, as affirming, through Robin's reconciliation with the king, the rule of law, the political order and royal authority, Pollard argues that they also celebrate the violent defence of justice by an outlaw. Not only is Robin Hood portrayed as defying the crown and rejecting royal authority, he is also depicted as returning to the greenwood, an 'alternative' kingdom with its own utopian social order. Robin can thus be interpreted as 'a social revolutionary envisaging an idealisation of anarchy as an alternative to monarchy'.[3] For Pollard, such an interpretation has serious implications for the 'new constitutional history' of the later Middle Ages, which has focused on the gentry and aristocracy to the exclusion of other 'classes'. The stories support other evidence suggesting that the commons had their own

[3] See p. 126 below.

political ideology and perception of their role in the political world, in which they had the right to defend the proper order of society and the common good – though this was rejected by the crown and its apologists. It is possible, Pollard cautiously suggests, that those who actually resorted to armed rebellion for this purpose in the late fifteenth century were influenced by the hope of creating a world not unlike the greenwood kingdom to which Robin Hood returned.

The final two contributions focus more directly on the rough texture of crime and criminal behaviour. In a series of compelling and richly documented case studies (Chapter 7), Hannes Kleineke examines gentry lawlessness in south-west England, a remote, but strategically important, region where the weaknesses of royal authority provided an environment in which lawbreaking was almost commonplace. While acknowledging that some of this activity may have been a way of dealing with local or community rivalries, Kleineke emphasises the varied criminality of his selected wrong-doers from the gentry of Cornwall. Though the patterns of violence and brutality were extreme, he argues that they were representative of their class background, and of south-west aristocratic crime in general. Disputes over land were central to these cases, but they were also influenced by local conditions and opportunities. The Cornish tin industry provided a tempting target which fuelled lawlessness on land, while the importance of shipping created opportunities for robbery at sea. But gentlemen who were involved in piracy were also appointed to local commissions of inquiry investigating the problem. By examining a varied range of activity, which included necromancy, Kleineke illuminates the administration and weaknesses of the law in a vulnerable frontier region of the realm.

These weaknesses are one of the underlying themes of John Appleby's essay on the persistent problem of piracy, particularly during the 1570s and 1580s (Chapter 8). As a form of organised criminal enterprise, piracy varied in character and intensity. In some regions it flourished with widespread community support or tolerance, and became a business enterprise with extensive geographical and social links. As such, the conduct of piracy reveals the way in which crime and lawlessness could develop entrepreneurial dimensions, involving the redistribution of wealth through the disposal and dispersal of booty. At the same time the use of gift-giving and exchange enabled pirates to retain support ashore, while effectively buying the connivance of officials. The weakness and limited resources of the Tudor regime, as demonstrated (for example) in its naval capacity, created the conditions for the growth of piracy during the sixteenth century. But this growth was also facilitated by the mixed and uncertain response to the problem by local communities. Consequently, in some regions, piracy threatened to become a way of life. Moreover, as piracy was a crime open to contested interpretation, it led to repeated negotiation and compromise between pirates, communities and the state.

In sum, this volume presents a valuable collection of studies addressing the themes of outlawry and crime, and their relationship to government, from different perspectives over an extensive period of English history. One of the merits of studying such a broad span of time is the way in which it allows deep continuities

to emerge, such as the long tradition of outlaw stories, the persistence of serious and petty local disorder, and the continuing, but often only partially successful, struggle of the agencies of central and local government to deal with it. While the essays in this volume cannot, of course, comprehensively cover the theme of outlawry over such a broad period, they are important contributions to a rich but somewhat neglected field of study, not least because they point to opportunities for further exploration. The contrasts and comparisons between the individual contributions underline the varied and challenging nature of crime in this period, its deep-seated ambiguity and adaptability, and the intricate relationship between it and the power of the state. By its very nature criminality and outlawry confronted government and society with a myriad of challenges and opportunities. It provoked varied responses, ranging from outrage and complaint to tolerance and even popular or patriotic celebration. This lives on in the enduring appeal of the hero-outlaw, especially in the accretion of stories and legends around figures such as Robin Hood. These tales were as diverse as their criminal progenitors, could be used for varied purposes depending on context and audience, and were always much more than sources of entertainment. They expose some of the underlying notions about right and wrong, law and order, justice and injustice, property and liberty, as well as good and bad governance, that had a profound influence on the development of the English constitution and state.

Chapter 1
The Outlaw Hereward 'the Wake': His Companions and Enemies

Paul Dalton

Hereward 'the Wake', an enigmatic Anglo-Saxon landholder from Lincolnshire, was elevated by a historical novel written by Charles Kingsley, first published in book form in 1866, into one of the most romantic figures of English medieval history: an outlaw and national hero famous for his determined resistance to the Norman invaders of 1066, and a forerunner of the greatest outlaw of English popular mythology, Robin Hood.[1] Since Kingsley's novel first appeared, Hereward has continued to attract considerable interest and is still the subject of many historical and fictional publications, despite the paucity and brevity of the reliable historical evidence for his life.[2] Contrastingly, the men who appear as Hereward's companions and enemies in some of the more extensive but less trustworthy twelfth-century sources for his career, have received much less historical attention. These men repay further examination, and are central to this chapter. The discussion which follows builds on work by Cyril Hart and others which argues that some of the English companions of Hereward in these sources were real historical figures, linked with the outlaw in various ways. It also suggests that the roles of some of Hereward's French companions and enemies, men whose historical existence are not in doubt, is quite plausible and supported by their connections with the outlaw and the regions where he was active, and by their administrative and military positions in post-Conquest England. In doing so, the discussion casts new light

I would like to thank Dr Gaynor Williams for helpful advice which much improved this chapter.

[1] C. Kingsley, *Hereward the Wake* (London, 1866).

[2] For historical works see, for example, M. Keen, *The Outlaws of Medieval Legend* (London, 1977), pp. 6–38; J. Hayward, 'Hereward the Outlaw', *Journal of Medieval History*, 14 (1988): 293–304; C. Hart, 'Hereward "the Wake" and His Companions', in his *The Danelaw* (London, 1992), pp. 625–48; D. Roffe, 'Hereward "the Wake" and the Barony of Bourne: A Reassessment of a Fenland Legend', *Lincolnshire History and Archaeology*, 29 (1994): 7–10; V. Head, *Hereward* (Stroud, 1995) and D. Roffe's review at http://www.roffe.co.uk/reviews/head.htm; E. van Houts, 'Hereward and Flanders', *Anglo-Saxon England*, 28 (2000): 201–23; D. Roffe, 'Hereward [*called* Hereward the Wake] (*fl.* 1070–1071)', in *ODNB*, vol. 26, pp. 767–8; P. Rex, *Hereward: The Last Englishman* (Stroud, 2005) and D. Roffe's review in *Lincolnshire History and Archaeology*, 39 (2004): 74.

on the identity, connections, motives and fate of some of the individuals, English and French, who played a part in Hereward's story; on Hereward's deeds, destiny and status; on the credibility, functions and dating of some of the literature written about Hereward during the twelfth century; and on the history of the Norman Conquest and the nature of political and tenurial conflict in the first century of Norman rule.

Before considering Hereward's companions and enemies, however, it is helpful to begin by reviewing the main sources for his life and what they reveal.

The Sources and their Information

The reliable historical evidence relating to Hereward is limited.[3] It includes a brief entry in the D version of the Anglo-Saxon Chronicle, describing William the Conqueror's famous siege of the English rebels gathered on the Isle of Ely in 1071, all of whom eventually surrendered, 'except Hereward alone and those who could escape with him, and he led them out valiantly'.[4] It also comprises a few short references in Domesday Book (completed in 1086) to Hereward and the estates he held in southern Lincolnshire.[5] More information on the outlaw

[3] The following discussion draws, in part, on Roffe, 'Hereward [*called* Hereward the Wake]', p. 767; Roffe, 'Hereward "the Wake"', 7–10.

[4] *The Anglo-Saxon Chronicle: A Revised Translation*, ed. and trans. D. Whitelock et al. (London, 1961), p. 154. For comment, see Hart, 'Hereward', pp. 630–31. For the historical context, see A. Williams, *The English and the Norman Conquest* (Woodbridge, 1995), pp. 45–57.

[5] Hereward held a manor from Peterborough abbey in Witham-on-the-Hill, Manthorpe, Toft and Lound, which had outlying estates in Barholm and Stowe; two manors (with a man named *Toli*) in Laughton, which had an outlier in Aslackby and Avethorpe and possibly others in Ringstone and Rippingale, which were held by Oger the Breton in 1086; and was assigned land in Rippingale, at a revenue to be agreed each year, by the abbot of Crowland who repossessed it before Hereward fled from the country because Hereward had not held to the agreement: *Domesday Book seu liber censualis ...* (cited hereafter as *DB*), ed. A. Farley and H. Ellis (4 vols, London, 1783–1816), vol. 1, ff. 346r, 364r, 376r–7r. All of these places were located within eight miles of Bourne, the home, according to later sources, of Hereward's father. For Bourne, see *DB*, vol. 1, f. 364v. The proximity was noted in Head, *Hereward*, p. 29. The identification of the Hereward in the Lincolnshire Domesday with the outlaw is also suggested by the former's tenure of lands from Peterborough and Crowland abbeys, communities associated with the outlaw in later sources; and by the reference to Hereward having fled. The identification has been widely accepted. See, for example, E.A. Freeman, *The History of the Norman Conquest of England, its Causes and its Results* (6 vols, 2nd edn, Oxford, 1867–79), vol. 4, pp. 454–65, 804–12; J.H. Round, *Feudal England: Historical Studies of the XIth and XIIth Centuries* (London, 1909), pp. 160–63; Hart, 'Hereward', pp. 626–7; Roffe, 'Hereward "the Wake"', 7–9. A Hereward also appears in Domesday in Suffolk, Warwickshire and Worcestershire: *DB*, vol. 1, ff.

that is reasonably trustworthy can be found in a number of historical works composed in the twelfth century. They include an interpolation in the E version of the Anglo-Saxon Chronicle for 1070, written at Peterborough abbey *c.*1121, which states that, after a Danish army invaded England and went to Ely, 'the monks of Peterborough heard it said that their own men meant to plunder the monastery – that was Hereward and his following', and goes on to describe how the outlaws attacked and burned the town of Peterborough, invaded and plundered its abbey, and took the stolen treasure to Ely.[6] The troubling of Peterborough abbey 'by brigands under one Hereward' is also mentioned, briefly, in William of Malmesbury's *Gesta Pontificum Anglorum*, written in the mid-1120s, and is recounted in much greater detail in a history of Peterborough abbey composed by one of its monks, Hugh Candidus, at some point in the period 1155–*c.*1160.[7] The Worcester chronicle, written by 1140, merely notes, in an account closely resembling that in the Anglo-Saxon Chronicle, that after the murder of Edwin, earl of Mercia, a group of English lords, including Morcar, earl of Northumbria, the bishop of Durham, Siward Barn and 'the most vigorous' Hereward 'with many others sailed to the island of Ely, intending to spend the winter there', were besieged by the Normans and surrendered, 'except for the valiant Hereward who fled with a few men through the fens'.[8] Henry of Huntingdon's *Historia Anglorum*, written between April 1123 and *c.*1154, gives a very similar report.[9] And the 'Hyde' (or Warenne) chronicle, written in the late 1150s, includes a terse description of Hereward's fenland rebellion and plundering activities, his killing of Frederick the brother (-in-law) of the Norman magnate William I de Warenne, and his eventual encirclement and killing by the Normans.[10]

173r, 240r–41r; vol. 2, f. 371r. This might have been a different man (or men). Although the tenure of estates by the Lincolnshire Hereward is described in the past tense, that of the Warwickshire Hereward appears (in the majority of cases) to have still been current in 1086, by which time, if Geoffrey Gaimar's version of Hereward's fate is true, the outlaw was probably dead.

6 *Anglo-Saxon Chronicle*, pp. xvi, 150–53.

7 *William of Malmesbury, Gesta Pontificvm Anglorvm: The History of the English Bishops*, ed. and trans. M. Winterbottom and R.M. Thomson (2 vols, Oxford, 2007), vol. 1, pp. 628–9; vol. 2, pp. xxii–xxiii; *The Peterborough Chronicle of Hugh Candidus*, ed. W.T. Mellows, trans. C. Mellows and W.T. Mellows (Peterborough, 1941), pp. 39–41. For comment on Candidus's account, see Hart, 'Hereward', pp. 627–8, 647–8. For the date of Candidus's death, see E. King, 'Hugh Candidus [Hugh Albus] (c.1095–c.1160)', in *ODNB*, vol. 28, pp. 620–21.

8 *The Chronicle of John of Worcester Volume III*, ed. and trans. P. McGurk (Oxford, 1998), pp. 20–21 and n. 4.

9 *Henry, Archdeacon of Huntingdon, Historia Anglorum: The History of the English People*, ed. and trans. D. Greenway (Oxford, 1996), pp. 396–7 and n. 188. Henry of Huntingdon wrote six versions of this chronicle: ibid., pp. lxvi–lxxvii.

10 *Chronica Monasterii de Hida juxta Wintoniam*, in *Liber Monasterii de Hyda* (Rolls Series, London, 1866), p. 295. For discussion and dating, see van Houts, 'Hereward and

In addition to this limited but largely reliable material, information on Hereward that is more extensive, but widely regarded as much less trustworthy, is to be found in three twelfth-century sources which show that the Hereward legend was already well established within a hundred years of 1066: the *Gesta Herwardi*, Geoffrey Gaimar's *Estoire des Engleis*, and the *Liber Eliensis*. These sources will now be considered in turn.

The *Gesta Herwardi* is a romantic account, in the heroic tradition, of Hereward's deeds from his youth to the time of his eventual reconciliation with William the Conqueror. It was apparently written by a monk of Ely named Richard, and is usually dated *c*.1109 x 1131. It is by far the most extensive account of Hereward's life and was based, according to its author, on a manuscript written in English by Hereward's priest Leofric, information supplied by local people, and the recollections of men familiar with Hereward's exploits.[11] Its narrative can be précised as follows. Hereward was the son of Leofric of Bourne, a kinsman of Earl Ralph the Staller, and his wife Eadgyth, a relation of Earl Oslac. Banished at the age of eighteen by King Edward the Confessor for unruly behaviour, Hereward acquired the name 'outlaw' and went to the court of his godfather, Gilbert de Gant, in Northumbria. There he saved the life of Gilbert's wife and daughters by killing a rampaging bear, was offered knighthood for his valiant deed, but eventually departed after attracting the hostility of Gilbert's men. Hereward then joined Alef, a prince of Cornwall, fought and killed a wicked and arrogant man named Ulcus Ferreus who was hoping to marry Alef's daughter, was imprisoned by Alef but then freed by Alef's daughter and sent by her to the son of the king of Ireland. Hereward successfully fought against the king's enemies and rescued Alef's daughter from an unwanted marriage. Leaving Ireland, Hereward was then shipwrecked near Saint-Omer, captured by the count of Flanders, fought for him against the count of Guînes, fell in love with his future wife Turfrida, and campaigned for the count of Flanders against the people of *Scaldemariland*. Leaving his wife and two nephews, Siward the Blond and Siward the Red, on the

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Flanders', 218; E. van Houts, 'The Warenne View of the Past', *Anglo-Norman Studies*, 26 (2004): 104, 110–13.

[11] For editions of the *Gesta*, see F. Michel, *Chroniques Anglo-Normandes* (3 vols, Rouen, 1836–40), vol. 2, pp. 1–98; 'De Gestis Herwardi Saxonis', ed. S.H. Miller, trans. W.D. Sweeting, in *Fenland Notes and Queries*, 3 (Peterborough, 1895, bound into the vol. for 1895–97), following p. 388 with text paginated as pp. 7–72; *Gesta Herwardi Incliti Exulis et Militis*, in *Lestorie des Engles solum la Translacion Maistre Geffrei Gaimar*, ed. T.D. Hardy and C.T. Martin (2 vols, Rolls Series, London, 1888–89), vol. 2, pp. 339–404. The text cited in this chapter (hereafter as *GH*) is that of Hardy and Martin. See also *Three Lives of the Last Englishmen*, trans. M. Swanton (New York, 1984), pp. 45–88, revised as M. Swanton, 'The Deeds of Hereward', in *Medieval Outlaws: Ten Tales in Modern English*, ed. T.H. Ohlgren (Stroud, 1998), pp. 12–60 (subsequent citations are to the revised version). For the composition of the work, see *GH*, pp. 339–41; Swanton, 'Deeds of Hereward', pp. 18–20; *Liber Eliensis*, ed. E.O. Blake (Camden Society, 3rd series, 92, 1962), pp. xxxiv–xxxvi, xxxvi n. 8 (cited hereafter as *LE*).

Continent, Hereward returned to England to discover that his brother had been killed while protecting his widowed mother from the Normans, who had seized his father's property at Bourne in Lincolnshire. Hereward took bloody revenge on the murderers and gathered a band of followers. Receiving knighthood from Abbot Brand of Peterborough, the outlaw then helped to defend the Isle of Ely against William the Conqueror. During this defence Hereward killed Frederick, brother of the Norman magnate William, earl of Warenne, who was planning to capture and punish or kill him, and then departed for Saint-Omer in Flanders to visit his wife. There Hereward and his nephews, Siward the Blond and Siward the Red, joined a campaign against the viscount of Picquigny, before returning to England to resume the struggle against the Normans.

The struggle was conducted at first from Bruneswald forest, where Hereward gathered a band of men which included his two nephews. He then escaped an ambush by the earl of Warenne, and went on successfully to defend Ely against a Norman attack led by King William. During the attack Hereward rescued a Norman knight named Deda and allowed him to return to the Normans to give a report about the English rebels and their situation on the Isle. Deda's praise for the rebels angered the earl of Warenne but influenced King William to consider making peace with Hereward. Dissuaded from this by his magnates, one of whom, Ivo Taillebois, advised using the artifices of a witch against the rebels, the king again laid siege to the Isle. To discover the plans of the Normans, Hereward went to the king's court disguised as a potter, was attacked by the king's kitchen servants and imprisoned, but escaped back to Ely where he led the resistance to the Norman assault. Deserted by the English earls Edwin, Morcar and Tostig, who went off to join the rebellion against King William led by the Norman Ralph de Gael, earl of East Anglia (1075), and betrayed by the monks of Ely, who secretly made peace with the king, Hereward escaped to the forests of Northamptonshire and continued to fight Norman forces, led by Ivo Taillebois and Turold abbot of Peterborough, sent to hunt him and his men. Hereward captured and ransomed Turold, burnt the town of Peterborough, and plundered its abbey. He then agreed to marry the wife or widow of the English Earl Dolfin as part of a peace agreement with King William; his first wife, Turfrida, making way for this by taking (possibly under compulsion) the veil at Crowland abbey. After fighting a brave Englishman named Letold, Hereward then went to the king, performed homage to him, and expected to receive his father's lands in return. On being challenged to single combat by Ogger, one of the king's courtiers who were indignant at the royal favour shown to Hereward, the outlaw fought and defeated him. Imprisoned for this by King William at Bedford, in the custody of Robert de Horepol, Hereward was kept there on the advice of William, earl of Warenne, Robert Malet and Ivo Taillebois, who remained hostile to him and blamed him for the lack of peace in the realm. While being delivered, through the machinations of Ivo Taillebois, from Bedford into the charge of a detestable man at Rockingham castle, and with the help of de Horepol, Hereward escaped and made peace with William the Conqueror. Restored by the

Conqueror to his father's lands and possessions, Hereward then lived on for many years faithfully serving the king.

The account of Hereward's deeds in Gaimar's *Estoire des Engleis*, a work written in French in the 1130s or 1140s at the behest of a Hampshire and Lincolnshire aristocrat, Constance wife of Ralph Fitz Gilbert, by a man who was possibly a clerk in her household, shares some of the *Gesta Herwardi*'s romantic and chivalric influences but tells a fundamentally different and more tragic tale.[12] Hereward first appears here as the leader of disinherited English outlaws who were joined by Morcar, earl of Northumbria, Bishop Æthelwine of Durham and others, and went to Ely. There they were besieged by King William who intimidated them into asking for mercy, except Hereward who escaped in a boat with a few companions and attacked a party of Frenchmen led by Guy the sheriff. Hereward and his men then escaped into the surrounding woods, eventually reaching Bruneswald. From there, they attacked Peterborough and plundered its monks, and assaulted Stamford. Hereward subsequently held out for many years against the Normans with his companions, defeating forces that outnumbered him until a lady named Alftrued sent for him to become her husband and receive her father's land. Hereward went to her under a truce from King William, and was about to fight for William in Maine when a group of Frenchmen broke the peace and attacked him while he was eating. Hereward fought bravely against his attackers, killing several of them, but was eventually killed by a Breton named Ralph de Dol from Tutbury, and then beheaded by a certain Halselin.[13]

The information about Hereward which appears in the *Liber Eliensis*, a history of the church of Ely and its estates composed, wholly or partly, by an Ely monk possibly named Richard (who may have been Richard, prior of Ely) between 1131 and 1174, is largely incorporated within an account of the Ely rebellion of 1071 based mainly on three apparently separate elements of local tradition. These are an account that appears to summarise elements of the *Gesta Herwardi* and draws on the phraseology of a biblical source (1 and 2 Maccabees); the *Gesta Herwardi* or possibly an earlier version of it; and a pro-Norman description of the Norman assault on the Isle of Ely.[14] The first of these traditions describes Hereward as the leader of the rebels gathered on the Isle of Ely, who urged his companions to fight for the liberty of their country and the heritage bequeathed to them by their fathers, and rescued them from fear through his valour in fighting the Normans. After the Normans broke a peace treaty, the people of Ely summoned Hereward and his

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[12] *L'Estoire des Engleis by Geffrei Gaimar*, ed. A. Bell (Anglo-Norman Text Society, 14–16, Oxford, 1960, for 1956–58), pp. 170–81 (cited hereafter as *EE*); *Lestorie*, vol. 1, pp. 226–42; vol. 2, pp. 169–80.

[13] The variants of Ralph's name, in different manuscripts include Raülf/Raüf/Raul/Rauls/Raol; and those of Tutbury include Destutesbirie/Tutesbire/Tutesbiri/Tuttesbire. The variant of Halselin was Alselm: see *EE*, p. 180 and nn.; *Lestorie*, vol. 1, pp. 236–7 and nn.

[14] *LE*, pp. xxxiv–xxxvi, xlvi–xlix, lv–lvii. See also Hart, 'Hereward', pp. 633–4; van Houts, 'Hereward and Flanders', 204.

followers, a mixture of exiled and disinherited men, back to the Isle, which the outlaw then used as a base to launch widespread pillaging raids.[15] Hereward next appears in a section of the *Liber Eliensis* that closely resembles those parts of the *Gesta Herwardi* describing a failed Norman assault on the Isle of Ely involving the knight Deda, and the failure of another Norman attack on the Isle involving Ivo Taillebois's witch.[16] To this the *Liber* adds details about Hereward and the greater English aristocrats making alliances with the Scots and Welsh and seeking another treaty with the Danes, and other information describing Hereward being drawn into the rebellion of Ralph de Gael, earl of East Anglia, in 1075.[17] A few chapters later Hereward is briefly mentioned in the pro-Norman version of the siege of Ely.[18] Finally, much further on in the *Liber*, in a section describing an inspection of the treasury of the cathedral priory of Ely by Nigel, bishop of Ely, there is a reference to a gospel-book given to St Æthelthryth by Siward of Maldon, 'a comrade of Hereward'.[19]

In addition to the sources for Hereward's life considered so far, further information about him can be found in later literature. Of principal interest here are a history of Crowland abbey (*Historia Croylandensis*) attributed to Abbot Ingulph (*c*.1080–1109) but actually written in the late fourteenth or early fifteenth century, which provides an account of Hereward's life that is similar to, though shorter than, that in the *Gesta Herwardi*; and a fifteenth-century genealogy of the lords of Bourne (the Wake family) who claimed descent from Hereward and whose name is the source of his cognomen.[20]

In recent years the general historical value of *Gesta Herwardi* and Gaimar's *Estoire* has been reassessed. While acknowledging that '[m]uch of the account of Hereward's early life' in the *Gesta* 'is phantastical, rigorously conforming to what was expected of a hero', and that the work 'draws on literary devices and heroic topoi', appears to contradict contemporary sources, and 'has been almost

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[15] *LE*, pp. 173–6; *Liber Eliensis: A History of the Isle of Ely from the Seventh Century to the Twelfth Compiled by a Monk of Ely in the Twelfth Century*, trans. J. Fairweather (Woodbridge, 2005), pp. 204–7 (cited hereafter as *LEH*).

[16] *LE*, pp. 177–86; *LEH*, pp. 209–20.

[17] *LE*, pp. 186–8; *LEH*, pp. 220–22.

[18] *LE*, pp. 191–3; *LEH*, pp. 226–8.

[19] *LE*, pp. 288–94, at p. 291; *LEH*, pp. 352–60, quotation at p. 355.

[20] 'Descriptio Compilata per Dominum Ingulphum Abbatem Monasterii Croyland …' (with continuations), in *Rerum Anglicarum Scriptorum Veterum Tom. I.*, ed. W. Fulman (Oxford, 1684), pp. 1–132, 451–593; *Ingulph's Chronicle of the Abbey of Croyland*, trans. H.T. Riley (London, 1854), pp. 134–6, 141–3, 258–9. For differences with the *Gesta Herwardi*, see Roffe, 'Hereward "the Wake"', 7. For discussion, see D. Roffe, 'The Historia Croylandensis: A Plea for Reassessment', *EHR*, 110 (1995): 93–108. For the Wake genealogy, see 'Etrait d'un role de la généalogie des seigneurs de Brunne et de Deeping', in Michel, *Chroniques Anglo-Normandes*, vol. 2, pp. xii–xv. For comment, see Roffe, 'Hereward "the Wake"', 7–9.

universally execrated', David Roffe considers that 'it may embody some authentic detail'. For example, even though Hereward's father's tenure of Bourne has been doubted because Domesday Book records the manor in the possession of Morcar, earl of Northumbria, before 1066, Roffe observes that this need not preclude Leofric's tenure, and that Hereward's 'rights almost certainly continued to inform the actions of the lords of Bourne after the eleventh century'. Moreover,

> in the later sections [of the *Gesta*] a real personality repeatedly emerges from its pages: Hereward is far too hot-headed and at times downright vicious to be the perfect hero. Much of the detail is of course unparalleled and is therefore unverifiable. The historical section, however, is evidently independent of the E Chronicle … But this is no ground for rejecting the authenticity of the account of the rebellion … the author of the [*Gesta*] was both chronologically and spatially close enough to the events that he describes to know the basic facts of Hereward's life and to get them right for its equally knowledgeable audience … . The [*Gesta*], the Historia [Croylandensis], and the rest provide a plausible account of [Hereward's] background which is consistent, or at least not inconsistent, with the known facts of Hereward's landed interests and their subsequent fate.[21]

Further evidence to support the accuracy of some of the *Gesta*'s material has been discovered by Elisabeth van Houts, who has argued, persuasively, that its description of one of Hereward's Continental campaigns may well have been based, to some extent, upon real events, and 'the kernel of [its account of Hereward's leadership of the fenland uprising] is substantially corroborated by details from the *Anglo-Saxon Chronicle*, John of Worcester and documentary texts'.[22] To this body of work can be added that of Hugh Thomas who, while recognising the *Gesta*'s fantastic and fictional characteristics, function to entertain, debt to romance and hagiographic literature, and other limitations, observes that it contains historical elements. Thomas notes that it reveals much 'about the survival of English identity and the debate between the merits of the English and their conquerors', and 'had a serious purpose'. This was 'to depict a world in which the English, having firmly established their culture and military skills are equal or even superior to those of their conquerors, can peacefully serve their new kings alongside the invaders and

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[21] Roffe, 'Hereward "the Wake"', 7–9; Roffe, 'Hereward [*called* Hereward the Wake]', p. 767. Hereward's association with Bourne, Leofric, and the Wake lords of Bourne has, however, been rejected: see Rex, *Hereward*, pp. 23–6, 36–7, 157–65.

[22] Van Houts, 'Hereward and Flanders', 201–23; van Houts views the *Gesta* more generally as 'an attempt to cope with the trauma of defeat … by romanticising heroic behaviour and honourable surrender, through the medium of epic narrative': E. van Houts, 'The Memory of 1066 in Written and Oral Tradition', *Anglo-Norman Studies*, 19 (1997): 172–3, at 173; E. van Houts, 'The Trauma of 1066', *History Today*, 46 (October, 1996): 9–15, at 12.

their descendants'; to portray the English as 'a worthy civilized, and noble people capable of producing great chivalric heroes'; and to point 'to a future in which the two peoples [English and Norman] could coexist peacefully and honourably'.[23]

As for Gaimar's *Estoire des Engleis*, while acknowledging its debt to the conventions of romantic and chivalric literature, John Gillingham has established that it can be regarded as a mirror of the values, morals, attitudes and aspirations of the French-speaking twelfth-century aristocracy of England which helps to illuminate their new sense of English identity, and as a work of significant historiographical importance. And other historians have added further dimensions to its value.[24]

To these examples of revisionist thinking can be added the work of Cyril Hart, who has shown that some of the men named as Hereward's companions in the twelfth-century sources for his life were real historical figures;[25] a view supported by van Houts who suggests that it seems that 'all [of these men] are historical persons of whom only the most important as landholders can now be traced and identified'.[26] There is further evidence that the *Gesta Herwardi*, Gaimar's *Estoire* and the *Liber Eliensis* contain some authentic information, that some of it relates not only to Hereward's companions but also to his enemies, and that the association of these men with the outlaw in these sources was based, to some extent, on historical reality. It is to these companions and enemies that we now turn.

Hereward's Companions

Gilbert I de Gant, who appears as Hereward's protective godfather in the *Gesta Herwardi*, was certainly a historical figure and may well have been linked to

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[23] H.M. Thomas, 'The *Gesta Herwardi*, the English, and their Conquerors', *Anglo Norman Studies*, 21 (1999): 213–32, at 213, 216, 231–2.

[24] J. Gillingham, *The English in the Twelfth Century: Imperialism, National Identity and Political Values* (Woodbridge, 2000), pp. 3–18 (at p. 6), 113–222, 233–58. For other work reassessing the value of Gaimar's history, see E. Freeman, 'Geffrei Gaimar, Vernacular Historiography, and the Assertion of Authority', *Studies in Philology*, 93 (1996): 188–206; J. Zatta, 'Gaimar's Rebels: Outlaw Heroes and the Creation of Authority in Twelfth-Century England', in W. Fahrenbach (ed.), *Essays in Medieval Studies*, 16 (1999), pp. 27–40; P. Dalton, 'The Date of Geoffrey Gaimar's *Estoire des Engleis*, The Connections of His Patrons, and the Politics of Stephen's Reign', *The Chaucer Review*, 42 (2007): 23–47; P. Dalton, 'Geffrei Gaimar's *Estoire des Engleis*, Peacemaking, and the "Twelfth-Century Revival of the English Nation"', *Studies in Philology*, 104 (2007): 427–54.

[25] Namely Turkil (of Harringworth), Siward Barn, and Siward of Maldon: Hart, 'Hereward', pp. 625–48; but see also Williams, *The English*, pp. 49–51. For possible identifications of other companions, including Godric of Corby, Tostig of Davenesse, Ordgar, Turbertinus, Rahenaldus and Leofric the Deacon, some of which are rather speculative, see Rex, *Hereward*, pp. 93–4, 186–9.

[26] Van Houts, 'The Memory of 1066', 173 n. 36.

Hereward in some way. Originating from Flanders and enriched in England after 1066 by William the Conqueror, Gilbert appears in Domesday Book as a wealthy tenant-in-chief holding extensive estates in several counties, including Yorkshire, Lincolnshire and Nottinghamshire.[27] He and his family have been studied extensively by modern historians.[28] Valuable consideration was given by one of them, van Houts, to the association between Gilbert and Hereward, but this can be taken further.[29] Even though there are chronological and other difficulties with the *Gesta*'s account of Hereward's association with Gilbert, the existence of some form of relationship between them is quite plausible in view of Gilbert's membership of a prominent aristocratic family from Flanders, a region with which Hereward appears to have had strong links, and the location of some of Gilbert's English estates.[30] Gilbert's Lincolnshire *caput* of Folkingham was only eight miles or so north of Bourne, the place described in the *Gesta* as the home of Hereward's father, and Gilbert held many other estates close to Bourne and Hereward's lands; indeed some of Gilbert's and Hereward's estates and rights were located in the same vills.[31] A link between Hereward and Gilbert is also suggested by the *Gesta'*s identification of Hereward's point of embarkation for the Isle of Ely as Bardney (Lincs.), for in 1089 Gilbert refounded the Benedictine abbey of Bardney on his estates there.[32]

It is also significant that Gilbert's grandson, Gilbert II de Gant (d. *c*.1156), and Gilbert II's wife, Rohese of Clare, were the lords in several Lincolnshire estates of Constance and Ralph Fitz Gilbert, the patrons of Geoffrey Gaimar who, like the author of the *Gesta*, was greatly interested in and apparently well informed about Hereward's life, and depicted him as a hero.[33] Rohese of Clare was, moreover, the niece of Baldwin Fitz Gilbert of Clare, who acquired a lordship in southern

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[27] *DB*, vol. 1, ff. 62r, 149v, 159v, 197r–v, 207r, 215r, 227v, 236r, 277v, 290v, 293v, 326r, 354v–6r.

[28] R.M. Sherman, 'The Continental Origins of the Ghent Family of Lincolnshire', *Nottingham Mediaeval Studies*, 22 (1978): 23–35; G. Beech, 'Aquitanians and Flemings in the Refoundation of Bardney Abbey (Lincolnshire) in the Later Eleventh Century', *Haskins Society Journal*, 1 (1989): 73–90; *Early Yorkshire Charters*, ed. W. Farrer (vols 1–3, Edinburgh, 1914–16) and C.T. Clay (vols 4–12, Yorkshire Archaeological Society Record Series, Extra Series, 1–3, 5–10, 1935–65), vol. 2, pp. 427–504; M.R. Abbott, 'The Gant Family in England, 1066–1191' (University of Cambridge PhD thesis, 1973).

[29] Van Houts, 'Hereward and Flanders', 215–20, 222.

[30] For Hereward and Flanders, see ibid., 215–17. Rex suggested that it is more likely that Hereward met Gilbert in Flanders than in England: *Hereward*, pp. 55–6.

[31] That is in Lound, Toft, Witham-on-the-Hill, Manthorpe, Barholm, Aslackby and Laughton: *DB*, vol. 1, ff. 346r, 355r, 356r, 364v. For Gilbert's other Lincolnshire estates, see ibid, ff. 354v–6r. The proximity of Folkingham to Bourne was noted in Head, *Hereward*, p. 60.

[32] Beech, 'Aquitanians and Flemings', 73–90.

[33] Dalton, 'The Date of Geoffrey Gaimar's *Estoire*', 34–6.

Lincolnshire in the early twelfth century that had a number of connections with Hereward.[34] The centre of this lordship was Bourne, many of its estates were situated within a few miles of Bourne, and a few of them were in vills where Hereward held lands. Moreover, some of these estates were held before Baldwin by Hugh de Envermeu, a Norman lord who, according to the *Historia Croylandensis* and the fifteenth-century genealogy of the Wake family, married Hereward's daughter and heir. In addition, a portion of Baldwin's lands, including land in Laughton and its outliers held by Hereward before 1066, constituted the Lincolnshire lordship held in 1086 by Oger the Breton who may have succeeded Hereward in other estates, was lord of land in Bourne, and succeeded a man named Leofric (the name of Hereward's father) in Morton, a vill less than three miles from Bourne.[35] There is, therefore, significant evidence beyond the *Gesta Herwardi* to suggest that Gilbert I de Gant was associated in some way with Hereward.

The same is true of some of the men described by the *Gesta* as Hereward's companions during his struggle against the Normans. One of them was Hereward's nephew, Siward the Red.[36] A Siward Rufus appears in the Lincolnshire Domesday, in an entry relating to Northorpe hundred in the north-west of the county. The entry states that Siward held one carucate of land in the time of King Edward (the Confessor), but that this was lately held by Ralph Neville from Abbot Turold and now adjudged for the king's use.[37] The displacement of Siward Rufus by Abbot Turold, presumably the Norman Abbot Turold of Peterborough who was one of Hereward's enemies, strengthens the case for identifying this Siward as Hereward's nephew.

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[34] For the Clares, see J.C. Ward, 'Royal Service and Reward: The Clare Family and the Crown, 1066–1154', *Anglo Norman Studies*, 11 (1989): 261–78, at 262.

[35] For the lordship of Baldwin Fitz Gilbert, see E. King, 'The Origins of the Wake Family: The Early History of the Barony of Bourne in Lincolnshire', *Northamptonshire Past and Present*, 5 (1975): 166–76. The estates held by Hugh de Envermeu that passed to Baldwin included the lands held in 1086 by Godfrey de Cambrai. These were centred on West Deeping, seven miles from Bourne, and some of them (held partly by Geoffrey in chief and partly from the abbey of Peterborough) were located in Barholm and Stowe, vills where Hereward held land: ibid., 167, 169, 172, 175; *DB*, vol. 1, ff. 346r, 366r. It is worthy of note that Hereward may have served Lietbert, bishop of Cambrai, as a mercenary in Cambrai before 1066 (van Houts, 'Hereward and Flanders', 210–13), and that an argument has been made that the Asketil who held Godfrey's land in Barholm before 1066 was a brother of Abbot Brand of Peterborough, and possibly Hereward's father (Rex, *Hereward*, pp. 41–7). For the marriage of Hugh de Envermeu, see *Ingulph's Chronicle*, pp. 135–6, 141–5; 'Etrait d'un role de la généalogie', pp. xii–xv. This has been doubted by some historians (for example, Round, *Feudal England*, p. 161), but is regarded as possible by Roffe, 'Hereward "the Wake"', 7–9. For Oger the Breton's lands and their descent to Baldwin Fitz Gilbert, see *DB*, vol. 1, f. 364r; King, 'Wake Family', 167, 169; and n. 5 above. See also Williams, *The English*, p. 50; Thomas, 'The *Gesta Herwardi*', 230–31; Roffe, 'Hereward "the Wake"', 8–9.

[36] See *GH*, pp. 347, 364, 370–71, 373; Swanton, 'Deeds of Hereward', pp. 24, 35, 38–40.

[37] *DB*, vol. 1, f. 376v. The entry was noted by Rex, *Hereward*, p. 188.

Several more companions of Hereward mentioned in the *Gesta Herwardi* are possibly traceable in Domesday Book. One of them was Outi. A man or men named Outi/Auti appear in Domesday holding lands in several places in Lincolnshire in the time of King Edward, including a number located less than 25 miles from Bourne.[38] It is even possible that Outi was the father of another companion of Hereward named Turkil, identified by Hart as Turkil of Harringworth.[39] A Toki (Tochi) son of Outi, who may be the same man as Turkil, appears in Domesday Book as the holder in 1066 of property, including a hall, in the city of Lincoln, and as one of the group of men who held the important rights of soke, sake, toll and team in Lincolnshire. Significantly, the holder of Toki son of Outi's hall in 1086 was Geoffrey Alselin who succeeded a pre-Conquest landholder named Toki in many estates and, as we shall see below, may well be the Halselin involved in Hereward's death.[40] It is also significant that Turkil and two more men who appear as Hereward's companions in the *Gesta*, Leofwine and Wulfric, had the same names as men who appear in Domesday Book holding land before 1066 in Bourne, the home of Hereward's father.[41] And the historical existence of another

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[38] *DB*, vol. 1, ff. 336r, 337r, 339v, 344r–5r, 357r–v, 371r, 376v. The lands less than 25 miles from Bourne were in Ashby de la Launde, Dry Doddington, Pickworth, and Swaton. The name Outi/Auti/Alti can be found in many other counties in 1086: ibid., ff. 29r, 46r, 49v, 166r, 168v, 169v, 213r, 237r, 239r, 248r, 256r, 259v, 260v, 265r, 278v; vol. 2, ff. 262r, 421r.

[39] The Latin variants of Turkil's name in the *Gesta* are Turkillus, Thurchitell' and Turkillo: *GH*, pp. 373, 379, 381. See also Swanton, 'Deeds of Hereward', pp. 40, 44 and n. 54, 45; *LE*, pp. 179, 181; *LEH*, pp. 211, 214. For Hart's identification of Turkil, of which he felt there was little doubt, see C.R. Hart, *The Early Charters of Eastern England* (Welwyn Garden City, 1966), pp. 236–8; Hart, 'Hereward', pp. 636–40, where he suggests that Toki was an abbreviated spelling of the name Turkil, while acknowledging (p. 638) that 'Many thegns named Toki, Turchil, and other similar variants appear in Domesday Book …… and it would be foolish, in the absence of further evidence, to assume that all these references were to Turkil of Harringworth'. Hart noted that Turkil of Harringworth was probably the Turchil who held estates in southern Lincolnshire, including at Bourne and Rippingale (where Hereward held land), and in several other counties. However, Ann Williams notes that '[t]he identification of [Turkil] and Toki is by no means proven; the names are distinct and Toki may well be another of the Ely rebels': *The English*, p. 51 n. 29.

[40] *DB*, vol. 1, ff. 336r, 337r. P.A. Clarke, *The English Nobility under Edward the Confessor* (Oxford, 1994), p. 158. This is assuming that Geoffrey succeeded just one man named Toki rather than several different men who shared that name. For the possibility that Turkil and Toki were one and the same man, see n. 39 above. It is also interesting that the men who held soke, sake, toll and team in Lincolnshire included Outi son of Azer: ibid., f. 337r. For the suggestion that Toki son of Outi was Hereward's grandfather but not the same man as the Toki who appears in the Cambridgeshire folios of Domesday Book, see Rex, *Hereward*, pp. 36–48. For the rights of soke, sake and so on, see D. Roffe, 'From Thegnage to Barony: Sake and Soke, Title, and Tenants-in-Chief', *Anglo-Norman Studies*, 12 (1990): 157–76.

[41] *GH*, pp. 372–3; Swanton, 'Deeds of Hereward', pp. 39–40; *DB*, vol. 1, ff. 358v, 364v, 370r.

trio of Hereward's companions named by the *Gesta* – Godric of Corby, Tostig of Rothwell and Leofric the Deacon, bailiff of Drayton – is suggested by the location of the places with which they were associated. They were all within or close to the region where Hereward lived and held out against the Normans.[42]

Evidence from Domesday Book also suggests that some of Hereward's companions named in Gaimar's *Estoire* were real people. One of them is Azier.[43] A man with a very similar name, Azor, appears in the Lincolnshire folios of Domesday Book holding property within Stamford and land outside it in the time of King Edward, and other estates or rights in 11 more Lincolnshire vills; and in 1086 a man with this name was holding a manor in Burton Coggles and Bassingthorpe (Lincs.).[44] Although it is possible that more than one man named Azor held all of these estates and rights, the relative proximity and compactness of these possessions suggests that one man might have held at least the majority of them. Most of the estates and rights were located in the southern half of Lincolnshire, less than 20 miles from Bourne, in some cases within ten miles of the town.[45] Moreover, Azor's possessions link him to Hereward in other ways. The lord of the estate in Cranwell in which Azor had jurisdictional and other rights (soke), was Hereward's purported godfather, Gilbert I de Gant; Azor's land in Barholm was situated in a vill that also incorporated land belonging to a manor held by Hereward; Azor's interest in Ingoldsby, only eight miles or so from Bourne, was claimed in 1086 by Hereward's enemy, Robert Malet, and adjudged to him by the men of the wapentake on the grounds that Azor was his predecessor; Azor's soke in Honington hundred was claimed by Gilbert I de Gant but adjudged by the men of the wapentake to Ivo (presumably Hereward's enemy, Ivo Taillebois) because Azor was Ivo's predecessor; and the manor in Burton Coggles and Bassingthorpe was held by Azor from Ivo Taillebois in 1086 as his man.[46]

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[42] Corby (Northants.) is less than 3 miles south-east of Rockingham, a place which gave its name to a major forest, about 20 miles from Peterborough, about 40 miles from Ely, and about 25 miles from Bourne. Rothwell (Northants.) is about 7 miles south-west of Corby, and Rothwell (Lincs.) is about 50 miles north of Bourne (the only other Rothwell being in Yorkshire). Drayton (Leics.) is less than 5 miles from Corby and less than 3 miles from Rockingham, and Drayton (Lincs.) is about 15 miles north-east of Bourne (though there are Draytons in several other counties). A Leofric the Deacon held land in Middleton, Suffolk: *DB*, vol. 2, f. 334r.

[43] *EE*, p. 177; *Lestorie*, vol. 1, pp. 236–7; vol. 2, p. 176. A variant of this name was Azecier.

[44] *DB*, vol. 1, ff. 336v–7r, 342v, 344v, 351v, 355v, 357r, 366r–v, 376v–7v. The 11 vills were South Coates, Toft (next Newton), Hougham, Casewick, Cheal, West Deeping, Wilsford, Cranwell, Helpringham, Barholm, and Ingoldsby.

[45] Those within ten miles were Barholm, Burton Coggles, Casewick, Cheal, Ingoldsby, Stamford, and West Deeping.

[46] See n. 44 above. The identification of Azor as the *antecessor* of Robert Malet and Ivo Taillebois suggests that we might be dealing here with more than one Azor, a possibility also suggested by the appearance of two distinct individuals named Azor/Azer (Azer son

Beyond Lincolnshire, lords named Azor/Azur/Azo/Atser/Atsur who held land in the time of King Edward appear in Domesday Book in many counties.[47] So frequent are their occurrences as to discourage a search for Hereward's companion Azier amongst them; except, that is, in the case of the Azor who held land at Pershore (Worcs.) from the abbey of St Mary located there. Of him, Domesday Book has this to say:

> There was an agreement (*conuentio*) that after his [Azor's] and his wife's death the land should return to the church's lordship. He [Azor] was alive on the day of King Edward's death and held the land in this way. But later, when his wife was dead, he was made an outlaw.[48]

Azor's outlawry occurred sometime between the death of King Edward in January 1066 and the completion of Domesday Book in 1086; quite possibly between 1069 and 1077 when Azor's land at Bengeworth was confiscated by the Norman lord Urse d'Abetot.[49] By 1086 Azor's Pershore estate had also passed into Urse's hands. Urse was a prominent figure in William the Conqueror's regime, a predatory sheriff (of Worcestershire), and a man who would have been expected to deal with English rebels and outlaws like Azor.[50] He was Worcestershire's equivalent of Hereward's great Lincolnshire foe, Ivo Taillebois. And his name inspired the adoption by his Beauchamp descendants of the heraldic emblem of the bear;[51] the same animal killed by Hereward at the court of Gilbert I de Gant.

Another companion of Hereward's appearing in Gaimar's *Estoire* who might be traceable in Domesday Book is Saiswold.[52] This is a rare name. It may have

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of Sualeuae and Azer son of Burg) in the list of men who held soke, sake, toll and team in Lincolnshire: *DB*, vol. 1, f. 337r.

[47] Ibid., ff. 1r–v, 6v, 9r, 13r, 19v, 21v, 22v, 23v–5r, 26v–9r, 34r–6r, 45v–6r, 52r, 53r–v, 57v, 62r, 64v, 66r, 69r–v, 73v, 83r, 84v, 89r, 99r, 129v–30r, 143r–v, 144v, 146v, 147v, 149v, 150r, 151v–2v, 157v, 159v–60r, 161r, 164r, 173r–4r, 175r, 209v, 216v, 219r, 220r–v, 223v–4r, 225r, 236v, 239v, 240v, 244r, 254r–5r, 256v–7r, 258v–9r, 260v, 280v, 285r, 288r, 291v, 293r; vol. 2, 443r, 444r. Clarke, *English Nobility*, pp. 149, 253–6.

[48] *DB*, vol. 1, f. 175r. For Azor, see A. Williams, 'The Spoliation of Worcester', *Anglo-Norman Studies*, 19 (1997): 394–7 and n. 89.

[49] Williams, 'Spoliation of Worcester', 397.

[50] *DB*, vol. 1, f. 175r. For Urse, who helped to defeat the rebellion of 1075, see Williams, 'Spoliation of Worcester', 397–9, 406–7; J.H. Round, rev. E. Mason, 'Abetot, Urse d' (*c.*1040–1108)', in *ODNB*, vol. 1, pp. 101–2; E. Mason, 'Brothers at Court: Urse de Abetot and Robert Dispenser', *Anglo-Norman Studies*, 31 (1989): 64–89. As well as at Bengeworth, Urse also succeeded Azor in land held from the bishop of Worcester at Redmarley (d'Abitot): ibid., ff. 173r, 174r. An Azo appears in the Northamptonshire Domesday holding land in Pytchley of the abbot of Peterborough: *DB*, vol. 1, f. 222r.

[51] Round, rev. Mason, 'Abetot, Urse d', p. 101, noting that the Latin word for bear is *ursus*. Mason thinks it likely that Urse also used this emblem: 'Brothers', 78, and see 88–9.

[52] *EE*, p. 177; *Lestorie*, vol. 1, pp. 236–7; vol. 2, p. 176. A variant of this name was Laiswold.

been the same name as that of the Saswalo who was the ancestor of a family which held extensive estates in England from, and was closely associated with, the powerful Norman family of Ferrers in the late eleventh and twelfth centuries.[53] This Saswalo (*Sauualo* in Latin) appears in Domesday Book as a tenant in 1086 of Henry de Ferrers, lord of Tutbury (Staffs.), in Derbyshire, Northamptonshire, Warwickshire, and Whitton in Lincolnshire; a tenancy later held in 1166 by his grandson Sewall (*Sewaldus* in Latin) from William I de Ferrers, Henry's great-grandson, and assessed then at nine knights' fees. It is significant that Saswalo's relatives appear in a number of twelfth-century documents associated with the Ferrers family, some of which show that they held land in Tutbury, the town associated in Gaimar's *Estoire* with Hereward's killer, Ralph de Dol. It is also significant that Saswalo's land at Whitton was held in 1066 by Siward Barn, one of Hereward's companions on the Isle of Ely, and was situated just two miles from Alkborough (Lincs.). Alkborough was a vill in which William Malet, father of Robert Malet, one of Hereward's enemies in the *Gesta Herwardi*, was the predecessor of Ivo Taillebois, another of the outlaw's opponents.

In addition to his Ferrers tenancy, Saswalo held land in Little Bytham (Lincs.) from Peterborough abbey, and is described as the abbot's man. Not only was Hereward a tenant and, according to Hugh Candidus, a man of Peterborough abbey, but his father's manor of Bourne was situated only five miles east of Little Bytham.[54] It has been suggested, moreover, that Saswalo (or Saxwalo) might have

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[53] For what follows in this paragraph, see *DB*, vol. 1, ff. 225r, 242r, 274v, 275r, 276r, 353v; *The Red Book of the Exchequer*, ed. H. Hall (3 vols, Rolls Series, London, 1897), vol. 1, p. 336; F. Stenton, *The First Century of English Feudalism 1066–1166* (Oxford, 1961), pp. 51–4; M. Jones, 'The Charters of Robert II de Ferrers, Earl of Nottingham, Derby and Ferrers', *Nottingham Medieval Studies*, 24 (1980): 7–26, at 15 and n. 51, 17 n. 62, 21; I.H. Jeayes, *Descriptive Catalogue of Derbyshire Charters in Public and Private Libraries and Muniment Rooms* (London, 1906), no. 239; *The Cartulary of Tutbury Priory*, ed. A. Saltman, *Collections for a History of Staffordshire*, 4th series, 4 (The Staffordshire Record Society, and Historical Manuscripts Commission Joint Publication Series, 2, London, 1962), nos. 52, 62, 67, 142, 167; *Calendar of Documents Preserved in France, Illustrative of the History of Great Britain and Ireland:.Vol. I. A.D. 918–1206*, ed. J.H. Round (London, 1899), nos. 806, 580, 582, 585–6; *English Lawsuits from William I to Richard I*, ed. R.C. van Caenegem (2 vols, Selden Society, London, 1990–91), vol. 1, no. 252; W. Dugdale, *Monasticon Anglicanum*, new edn by J. Caley, H. Ellis and B. Bandinel (8 vols, London, 1846), vol. 3, pp. 392 no. II, 393 no. VI; J. Nichols, *The History and Antiquities of the County of Leicester* (4 vols in 8, London, 1795; Wakefield, 1971), vol. 3 (part 2), p. 697. For other occurrences of the family of Saswalo in the records, see Jeayes, *Descriptive Catalogue*, nos. 134, 516, 536; *Cartulary of Tutbury*, no. 113; 'The Burton Cartulary', an abstract by G. Wrottesley, in *Collections for a History of Staffordshire*, part 1, 5 (The William Salt Archaeological Society, London, 1884), pp. 31, 38; *Monasticon*, vol. 3, pp. 388, 394 no. XII, 395 no. XIV. For Siward Barn, see Hart, 'Hereward', pp. 640–47.

[54] *DB*, vol. 1, f. 345v; *Peterborough Chronicle of Hugh Candidus*, p. 40. The Saswalo who was a tenant in Berkshire and Oxfordshire appears to be a different man: *DB*, vol. 1,

been the Domesday tenant of lands later held of Peterborough abbey by Hugh de Envermeu, the purported husband of Hereward's daughter.[55] Although it has been proposed that the Domesday Saswalo was not an Englishman, there is surely more than a possibility that he was actually one of Hereward's English companions.[56] And if this is correct, the evidence indicates not only that Saswalo's lands were confiscated and/or passed under the lordship of Henry de Ferrers during or soon after Hereward's revolt, but also that Saswalo managed to survive the rebellions and emerged from them as lord of a significant body of estates. This raises the possibility that Saswalo came to some form of accommodation with the Normans in which he managed to retain some or all of his family lands intact, albeit under Norman overlordship; a scenario very similar to Hereward's eventual fate in the *Gesta Herwardi*.

If the Domesday landholders discussed above were indeed companions of Hereward, their identities help further to illuminate another obscure aspect of the outlaw's life that has been the source of some debate: his social status. The evidence suggests that most (at least) of these men came from the highest echelons of English thegnly society. Azor the Worcestershire outlaw was a kinsman and chamberlain of Brihtheah, bishop of Worcester, former abbot of Pershore.[57] If he was the same man as the Azor who held land in Lincolnshire, he was clearly a lord whose estates and influence extended across more than one county and between different regions of England. A man with this name, and other thegns named Toki and Outi, held the important rights of sake, soke, toll and team.[58] Moreover, many estates were held by a man, or men, named Azor directly from King Edward the Confessor before 1066; and men named Azor and Toki were also the holders of significant urban property. In addition, the substantial size of the tenancy held by the descendants of Saswalo from the Ferrers lords of Tutbury, suggests that Saswalo was also a thegn of considerable standing. It is hard to believe that an Englishman who led outlaws such as these, if outlaws they actually were, would not have been at least their social equal. This observation supports the view that Hereward was either a king's thegn or the son of one, that the high social status accorded to him by the literary sources for his life may well reflect reality, and

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ff. 62r, 159v–60r; K.S.B. Keats-Rohan, *Domesday People: A Prosopography of Persons Occurring in English Documents 1066–1166 I. Domesday Book* (Woodbridge, 1999), p. 417. For Hereward and Peterborough abbey, see Roffe, 'Hereward [*called* Hereward the Wake]', pp. 767–8.

[55] See E. King, *Peterborough Abbey 1086–1310: A Study in the Land Market* (Cambridge, 1973), p. 24; *Ingulph's Chronicle*, pp. 135–6, 141–5; Michel, *Chroniques*, vol. 2, pp. xii–xv.

[56] For the proposition, see *VCH Warwickshire*, vol. 1, p. 282. For a Sasualo de Bouville, who seems to have been a Frenchman, see *Regesta Regum Anglo-Normannorum: The Acta of William I (1066–1087)*, ed. D. Bates (Oxford, 1998), no. 117.

[57] Williams, 'The Spoliation of Worcester', 394–7 and n. 89.

[58] *DB*, vol. 1, ff. 280r–v, 337r

that the portrayal of Hereward's background in these sources is more reliable than some historians have appreciated.[59]

Hereward's Enemies

The case that some of Hereward's enemies were real historical figures with plausible links to him is even stronger than for his companions. Before turning to some of Hereward's Norman opponents, whose historical existence and careers are well known, it is useful to begin with one of them who appears in the *Gesta Herwardi* in England prior to the Norman invasion of 1066: Ulcus Ferreus, the man defeated by Hereward in single combat in Cornwall. Although Ulcus has attracted little historical attention, and his role in the *Gesta* has every appearance, at first sight, of being purely fictional, he may provide yet another real link between Hereward and the Ferrers family. Ulcus's name looks, at one level and in Latin, to be a play on words intended to underline his unpleasantness.[60] The author's low opinion of Ulcus is probably also reflected in the statement that Ulcus was regarded as the strongest warrior among the Scots and Picts, people commonly regarded by Anglo-Norman writers as barbarous, and in his references to Ulcus as wicked, arrogant, untruthful, disparaging towards English military strength and ability, and a tyrant.[61] But there might be another dimension to the play on words, since the name Ulcus Ferreus is quite similar to some of the Latin variants of the name of Henry de Ferrers, lord of Tutbury, who derived his surname from Ferrières-Saint-Hilaire in Normandy.[62]

Although Henry de Ferrers makes no direct appearance in the Hereward tales and held no land in chief in Cornwall, it is quite possible that he and/or some of his men were involved in the Norman military operations against Hereward and that he is represented as Ulcus Ferreus in the *Gesta* by an author who either wanted to depict him as a villain or was reflecting popular, and possibly English, prejudices against Hereward's Norman opponents. As Hart noted, Henry de Ferrers received

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[59] For Hereward as a king's thegn, see Roffe, 'Hereward "the Wake"', 7–10. For the argument that he was the son of a king's thegn, see Rex, *Hereward*, pp. 31–2, 36–47. For the status of some of Herward's companions, see also Clarke, *English nobility*, pp. 32–3.

[60] See C.T. Lewis and C. Short, *A Latin Dictionary* (Oxford, 1975), pp. 740, 1924.

[61] *GH*, pp. 344–7; Swanton, 'Deeds of Hereward', pp. 22–3. For the attitude of Anglo-Norman writers towards the Scots and Picts, see Gillingham, *The English*, pp. 3–18.

[62] Henry's name appears in Domesday Book as *Henricus de Ferer'/Ferieres/Ferreres/Fereires/Ferarr'/Ferrariis*: *DB*, vol. 1, ff. 246r, 248v, 272r, 280v, 291v. For Henry's Norman origins, see n. 64 below. The identification of Ulcus with Henry raises the question of why the author of the *Gesta* did not simply name Henry, as he did with Hereward's other Norman enemies. The explanation might have something to do with the earlier sections of the *Gesta* being the most imaginative and romantic in the work, and with the fondness of writers of heroic literature for the devices of allegory and metaphor.

most of the estates confiscated by the Normans from one of Hereward's companions on the Isle of Ely, Siward Barn.[63] The possibility of Henry's involvement in the Ely campaign is strengthened by the fact that he was one of the leading Norman magnates in William the Conqueror's regime. A Domesday commissioner and possibly sheriff of Berkshire sometime after 1066, Henry appears in Domesday Book as a tenant-in-chief in 14 English counties, including several (Derbyshire, Leicestershire, Lincolnshire, Northamptonshire and Nottinghamshire) that were within or close to Hereward's sphere of rebellious operations.[64] Moreover, as has been noted above, the *caput* of Henry's extensive midland lordship, where he built a castle and founded a Benedictine priory, was Tutbury, the place associated with Hereward's Breton killer, Ralph de Dol; and it is possible, as we have seen, that Henry confiscated and/or assumed control of the estates of Hereward's companion Saiswold.[65]

The hostility of several other French lords, whose historical existence is unquestionable, towards Hereward is quite explicit in the *Gesta Herwardi*, Gaimar's *Estoire* and the *Liber Eliensis*. Hugh Thomas noted that some of them, including Ivo Taillebois, Robert Malet and William I de Warenne, were depicted in the *Gesta* as acting 'in unheroic and unchivalrous ways that were common among the often villainous opponents of the heroes of the romances, epics, and *chansons de geste* of the period'. But whereas in 'most of these other works the opponents were stock figures trotted out to serve as a foil for the hero and to advance the plot', in the *Gesta* the villains were also the ancestors of the mid-twelfth-century aristocracy and 'this hostile depiction of them must have been politically charged'. It was part and parcel of the author's attempt to defend English honour, military ability and reputation, chivalry and culture, and 'to undermine any claims to superiority, particularly in the military arena, by the invaders or their descendants'.[66] While this may certainly be true, it is also significant that an analysis of the identity,

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[63] Hart, 'Hereward', pp. 641, 644.

[64] *DB*, vol. 1, ff. 60r–v, 72r, 151r, 157v, 169r, 185r, 225r, 233r–v, 242r, 248v (including Tutbury), 274r–6r, 291v, 353v; vol. 2, ff. 56v–7r; *Cartulary of Tutbury*, p. 5, no. 51; Judith A. Green, *English Sheriffs to 1154* (London, 1990), p. 26. For the Ferrers family, see P.E. Golob, 'The Ferrers Earls of Derby: A Study of the Honour of Tutbury, 1066–1279' (University of Cambridge PhD thesis, 1985); Jones, 'The Charters of Robert II de Ferrers', 7–26; Marios Costambeys, 'Ferrers, Henry de (*d*.1093x1100)', in *ODNB*, vol. 19, pp. 427–8; M. Jones, 'Ferrers, Robert de, First Earl Ferrers [Earl of Derby, Earl of Nottingham] (*d*.1139)', in *ODNB*, vol. 19, pp. 431–2; G.E. C[okayne], *The Complete Peerage of England, Scotland, Ireland, Great Britain and the United Kingdom …*, revised by V. Gibbs et al. (13 vols in 14, London, 1910–59), vol. 4, pp. 190–96; I.J. Sanders, *English Baronies: A Study of their Origin and Descent 1086–1327* (Oxford, 1960), p. 148. For a map of some of Henry's estates, see M. Chibnall, *Anglo-Norman England 1066–1166* (Oxford, 1993), p. 26.

[65] See p. 22 above.

[66] Thomas, 'The *Gesta Herwardi*', 218–28, at 218–19, 227.

possessions and careers of these Frenchmen suggests that their connections with Hereward and hostilities towards him had a basis in historical fact.[67]

One of these Frenchmen was Ogger, the courtier of William the Conqueror defeated by Hereward in single combat.[68] Ogger had a very similar name to that of Oger the Breton, the Domesday tenant-in-chief who was connected with Hereward in a number of ways, and it has been suggested that they were one and the same person.[69]

Another French opponent of Hereward, much greater in stature than Oger the Breton, was Ivo Taillebois, who appears as a villain in both the *Gesta Herwardi* and *Liber Eliensis*, and is possibly to be identified with the sheriff Guy attacked by Hereward in Gaimar's *Estoire*.[70] Ivo is described in the *Liber* as having been present when some of the companions of William the Conqueror, who had plundered the possessions and goods of the English rebels, dissuaded the king from making peace with these rebels because they feared having to restore what they had taken. It was Ivo who at this point advised the king to use a witch to destroy the Englishmen of Ely.[71] The story was clearly intended to reflect very badly upon Ivo and to dishonour and ridicule him. The witch was, of course, an instrument of evil. She cast spells against the English rebels, bared her buttocks to them, was entirely unsuccessful in her malevolent efforts, and ended up with a broken neck.[72] Using her in this way was the very antithesis of what it was to be noble in an age when aristocrats won fame and honour through their goodness, piety, courage, valour and personal success in combat. The story of the witch and her demise smacks of deliberate mockery and humiliation, targeted as much at Ivo Taillebois and his fellow Normans as against the unfortunate woman.[73] The *Gesta Herwardi* underlines this by noting that the king himself narrowly escaped being killed by an arrow during the assault on Ely, and by having him declare that the death of almost all of his men in this assault was due to using the witch who was an 'abominable woman' practising a 'detestable art', 'even to listen to whom ought to be damnable', and that the Normans deserved what had happened to them.[74] And this was only one of Ivo's wrongs against Hereward in the *Gesta*. Ivo led the forces hunting for Hereward after the outlaw left the Isle of Ely, was among

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[67] Brief notes on some of them, including the well-known Turold, abbot of Peterborough, are provided by Rex, *Hereward*, pp. 191–6, but they warrant further analysis.

[68] *GH*, pp. 400–401; Swanton, 'Deeds of Hereward', pp. 57–8,

[69] For example, by Kingsley in *Heward the Wake*. For valuable notes on Oger the Breton , see Roffe, 'Hereward "the Wake"', 7–9.

[70] For Guy, see *EE*, p. 175; *Lestorie*, vol. 1, p. 234; vol. 2, p. 174.

[71] *LE*, pp. 182–3; *LEH*, pp. 215–16. For a different version of the story, see *GH*, pp. 382–4; Swanton, 'Deeds of Hereward', pp. 46–7.

[72] *GH*, pp. 389–90; Swanton, 'Deeds of Hereward', pp. 50–51; and see *LE*, p. 186; *LEH*, pp. 219–20.

[73] See the comments of Thomas, 'The *Gesta Herwardi*', 227–8.

[74] *GH*, p. 390; Swanton, 'Deeds of Hereward', p. 51.

those who remained hostile to Hereward after his imprisonment at Bedford and counselled King William not to release him, and orchestrated the outlaw's transfer from Bedford into the custody of a detestable man at Rockingham castle.[75]

Independent evidence shows that Ivo Taillebois had very strong links with Hereward's home county of Lincolnshire by 1086, and may have been well placed earlier to play a prominent part in the siege of Ely in 1071 and the subsequent hunt for the outlaw. Ivo married the wealthy English heiress, Countess Lucy of Bolingbroke (Lincs.) at some point between 1066 and 1086, was sheriff of Lincolnshire in 1086 and possibly earlier, and may have been sheriff of Norfolk (1075 x 1086) and Bedfordshire (1066 x 1086). He appears in Domesday Book as the tenant-in-chief of an extensive Lincolnshire honour which included a major group of estates clustered around the *caput* of Bolingbroke, only 30 miles or so north-east of Bourne, several manors or sokelands situated within 20 miles of Bourne, and a manor in Bourne itself.[76] Subsequently further enriched by King William II (Rufus; 1087–1100) with lands in the upper Eden region of Cumbria, Ribblesdale and Lonsdale close to the border with Scotland, Ivo served as one of the royal stewards and was clearly regarded as a man well suited to dealing with areas and circumstances that presented the Normans with military, political and administrative challenges.[77] It is also possible that Ivo seized or received a portion of the lands of at least one of the leaders of the Ely rebellion, Siward Barn, since he held several estates in Lincolnshire in 1086 which a man named Siward had possessed in the time of King Edward the Confessor.[78] Ivo's father or brother, Ralph Taillebois, was one of those predatory Norman sheriffs who built up their estates by seizing the lands of English royal sokemen, and Ivo himself was remembered into the late Middle Ages at Crowland abbey, a community with which Hereward was closely linked, as a tyrannical oppressor of the monastery and of the people of the region of Holland in Lincolnshire.[79] In many respects, therefore, the depiction

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[75] *GH*, pp. 393, 401–2; Swanton, 'Deeds of Hereward', pp. 53, 58, 59.

[76] *Complete Peerage*, vol. 7, Appendix J; Green, *English Sheriffs*, pp. 25, 54, 60; *DB*, vol. 1, ff. 350r–51v.

[77] *Charters of the Honour of Mowbray 1107–1191*, ed. D.E. Greenway (London, 1972), p. xxii; Green, *English Sheriffs*, p. 16.

[78] *DB*, vol. 1, ff. 350r–51r. Siward is named as Ivo's *antecessoris*: ibid., f. 375v. Whether this was Siward Barn, however, is uncertain.

[79] For Ralph, see Green, *English Sheriffs*, pp. 25, 28, 47; R. Abels, 'Sheriffs, Lord-Seeking and the Norman Settlement of the South-East Midlands', *Anglo-Norman Studies*, 19 (1997): 35–40. For Ivo's oppressions, see 'Descriptio Ingulphum Abbatem', pp. 71–3, 86, 94–5, 107, 125; *Ingulph's Chronicle*, pp. 143–7, 193, 222–3, 258–60. According to this source, one of the places taken by Ivo from Crowland abbey was Spalding, which he used to found his own religious house. Ivo held a manor at Spalding and was a benefactor of Spalding priory, as was his wife Countess Lucy: *DB*, vol. 1, f. 351v; *VCH Lincolnshire*, vol. 2, p. 119. For Hereward's relationship with Crowland, see *DB*, vol. 1, f. 377r; *GH*, pp. 397–8; Swanton. 'Deeds of Hereward', p. 56; *Ingulph's Chronicle*, pp. 134, 136; Roffe,

of Ivo Taillebois as one of Hereward's enemies in the *Gesta Herwardi* and *Liber Eliensis* is more than plausible.

Another Norman lord who appears in the *Gesta* as hostile to Hereward, Robert Malet (d. 1105 x 1107), was the son and heir of William Malet, lord of Graville-Sainte-Honorine, near Le Havre. According to the *Gesta*, Robert was one of the Norman lords who, with Ivo Taillebois, remained hostile to Hereward and dissuaded William the Conqueror from setting him free after the king imprisoned him for a year at Bedford.[80] Like Ivo, Robert was a leading figure in the Norman regime in England and had strong ties by 1086, if not before, with the areas where Hereward was active. He appears in Domesday Book as a tenant-in-chief in eight counties (including Lincolnshire, Nottinghamshire, and Rutland), had a *caput* at Eye in Suffolk, and was among the 12 richest lay landholders in England.[81] It is also significant that Robert was closely linked with Ivo Taillebois. Ivo held lands from Robert, was married to Robert's niece (Countess Lucy of Bolingbroke) and succeeded Robert's father, William Malet, as lord of land in the Lincolnshire vill of Alkborough.[82] Robert Malet's involvement in the opposition to Hereward may thus have owed something to his strong ties with a powerful Norman administrative family in Lincolnshire. It could also have been influenced by a close relationship with another family holding significant estates there, that of the Domesday tenant-in-chief Alfred of Lincoln, who was probably also related to Ivo Taillebois.[83] Many of Alfred's estates were

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'Hereward "the Wake"', 7–9; Williams, *The English*, p. 50. For signs that Ivo may have plundered Ely abbey, see *LE*, pp. 199–200; *LEH*, p. 237; *Regesta William I*, no. 122.

[80] *GH*, pp. 401–2; Swanton, 'Deeds of Hereward', p. 58.

[81] For the Malet family, see C.W. Hollister, 'Henry I and Robert Malet', *Viator*, 4 (1973): 115–22, reprinted in his *Monarchy, Magnates and Institutions in the Anglo-Norman World* (London, 1986), pp. 129–36; C.P. Lewis, 'The King and Eye: A Study in Anglo-Norman Politics', *EHR*, 104 (1989): 569–89; C. Hart, 'William Malet and His Family', *Anglo-Norman Studies*, 19 (1997): 123–65; K.S.B. Keats-Rohan, 'Domesday Book and the Malets: Patrimony and the Private Histories of Public Lives', *Nottingham Medieval Studies*, 41 (1997): 13–51; K.S.B. Keats-Rohan, 'Malet, William (*d*. 1071?)', in *ODNB*, vol. 36, pp. 312–13; C.P. Lewis, 'Malet, Robert (*fl.* 1066–1105)', in *ODNB*, vol. 36, p. 311. For Robert Malet's Domesday holdings, see *DB*, vol. 1, ff. 36v, 291v, 293v, 320v–21r, 368r; vol. 2, ff. 88r–v, 153v–6r, 304r–30r.

[82] See *Regesta Regum Anglo-Normannorum*, ed. H.W.C. Davis et al. (4 vols, Oxford, 1913–69), vol. 3, no. 180; Keats-Rohan, *Domesday People ... Domesday Book*, p. 142; Keats-Rohan, 'Domesday Book and the Malets', 14 n. 7, 22–5. See also K.S.B. Keats-Rohan, *Domesday Descendants: A Prosopography of Persons Occurring in English Documents 1066–1166 II. Pipe Rolls to Cartae Baronum* (Woodbridge, 2002), p. 40; Hart, 'William Malet', 137; *DB*, vol. 1, f. 350v.

[83] Countess Lucy of Bolingbroke had an uncle named Alan of Lincoln: *Regesta Regum Anglo-Normannorum*, vol. 3, no. 180. Keats-Rohan argues that Alan was Alfred of Lincoln's son and successor, and that Alfred married a sister of Robert Malet distinct from the sister who married Turold the sheriff; and also observes that in Bedfordshire and Rutland the lands of Robert Malet and Alfred of Lincoln were no more than 5 kilometres

located less than 12 miles from Bourne, one of them was in Bourne itself, and others were situated in Rippingale and Avethorpe, where Hereward held lands.[84]

The plausibility of the *Gesta Herwardi*'s depiction of Robert Malet as an enemy of Hereward is further reinforced by the heavy reliance placed by William the Conqueror on the Malet family to assist him to conquer and govern England. William Malet was sheriff of Yorkshire during the major northern English rebellion of 1068–69 and castellan of one of the castles in York, where he was captured with his family by the Danes in 1069, and may also have been sheriff of Suffolk at some point between 1066 and 1070. It is significant that Gilbert I de Gant, Hereward's purported godfather, was captured with William Malet at York and may have been one of his close relatives.[85] Not long after this William Malet appears to have died during a mission into the fenlands on behalf of the king. Edward Freeman believed that Malet's death was linked to the Ely rebellion of 1071, and may have been right to do so.[86] This might provide part of the explanation for the hostility of William's son, Robert, to Hereward, a hostility that is also plausible for other reasons. Like William, Robert was one of the men entrusted by the king with significant military and administrative responsibilities in England. He was sheriff of Suffolk in 1071 and 1080 (and possibly at other times), and in 1075 is described as a vigorous knight who commanded troops for the king and took a leading role in suppressing a major rebellion in East Anglia.[87]

The *Gesta Herwardi*'s villains also include William I de Warenne (d. 1088), a distant kinsman of William the Conqueror who 'became one of the richest magnates

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apart: *Domesday People ... Domesday Book*, pp. 141–2; Keats-Rohan, 'Domesday Book and the Malets', 15 and n. 12. In Lincolnshire, some of Alfred's estates were close to, or in the same vills as, those of Robert Malet and his probable relative Durand Malet: see Lewis, 'The King and Eye', 578: *DB*, vol. 1, ff. 357v–8r, 365r.

[84] *DB*, vol. 1, ff. 357v–8v.

[85] Symeon of Durham, *Historia Regum*, in *Symeonis Monachi Opera Omnia*, ed. T. Arnold (2 vols, Rolls Series, London, 1882–85), vol. 2, p. 188; Green, *English Sheriffs*, pp. 76, 89. It has been suggested that the wife of William Malet's son Robert, Emmelina, was a daughter of Hugh II de Montfort, whose eldest daughter, Alice, married Gilbert I de Gant: Keats-Rohan, 'Domesday Book and the Malets', 17–18. For the possible strategic orientation of the Malet estates in Yorkshire, see Hart, 'William Malet', 129–33.

[86] Freeman, *Norman Conquest*, vol. 4, p. 471. This was challenged by J.H. Round, 'The Death of William Malet', *The Academy*, 25 (26 April, 1884): 297; but Round's views have found no support in recent scholarship. See Hart, 'William Malet', 147, who accepted the link with the rebellion, but felt it more likely that Malet was on an administrative rather than a military mission; Lewis, 'The King and Eye', 569 and n. 4, who cautiously considered that Malet possibly died at Ely and noted that Round's alternative suggestion 'is unconvincing'; and Keats-Rohan, 'Malet, William', p. 313 who agreed with Freeman.

[87] Green, *English Sheriffs*, p. 76; Lewis, 'The King and Eye', 570. For 1075, see D.C. Douglas, *William the Conqueror: The Norman Impact upon England* (London, 1989), pp. 230–33; Williams, *The English*, pp. 59–65; Keats-Rohan, 'Domesday Book and the Malets', 14, 22.

in England with extensive lands in Sussex, Cambridgeshire, Norfolk, Suffolk and later in Yorkshire, totalling more than £1,000 annually'.[88] Hereward is described in the *Gesta* as killing William de Warenne's brother, Frederick, who was planning to capture and punish Hereward or to kill him, prior to his joining of the Ely rebellion.[89] After Hereward returned from Flanders and was requested by the rebels of Ely to join them, William de Warenne prepared to ambush him and encountered him at a place called Earith. There one of William's men unsuccessfully tried to bribe Hereward's men to betray the outlaw. Hereward then fired an arrow at William which rebounded from his mail-coat but knocked him from his horse and rendered him almost lifeless.[90] William is next mentioned in the *Gesta* responding badly to the eulogistic account given by the Norman knight Deda to the king about the English rebels on the Isle of Ely. Deda's words provoked an angry outburst from William de Warenne, who rebuked Deda and insulted Hereward.[91] A similar story in the *Liber Eliensis* states that William, 'whose brother Hereward slew some time before, flared up with weighty indignation, and alleged that he [Deda] had been inveigled by a bribe and was lying'.[92] The *Gesta* also names William as among the Norman lords who remained hostile to Hereward after his imprisonment by the Conqueror at Bedford and advised the king not to release him.[93] As in the case of Ivo Taillebois, the author of the *Gesta* was clearly intent on portraying William de Warenne as dishonourable and humiliating him, and may have been so (in part) because he wanted to defend English honour and military virtue and to undermine Norman claims to martial and chivalric superiority.[94] The dishonour is implicit in William's attempt to ambush Hereward, and in the attempt by his man to bribe Hereward's men to betray their lord. The humiliation is patent in the circumstances and relative ease of William's defeat by Hereward. Rather than being vanquished in valorous hand-to-hand combat, William was knocked unconscious at a distance by an arrow, the force of which was insufficient to penetrate his armour.[95]

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[88] van Houts, 'The Warenne View of the Past', 104. See also *Early Yorkshire Charters*, vol. 8, pp. 1–7; C.P. Lewis, 'Warenne, William (I) de, First Earl of Surrey [Earl Warenne] (*d*. 1088)', in *ODNB*, vol. 57, p. 404; C. Warren Hollister, 'The Taming of a Turbulent Earl: Henry I and William of Warenne', *Réflexions Historiques*, 3 (1976): 83–91, reprinted in his *Monarchy, Magnates and Institutions*, pp. 137–44.

[89] *GH*, p. 369; Swanton, 'Deeds of Hereward', p. 38. See also *LE*, p. 180; *LEH*, p. 212.

[90] *GH*, pp. 374–6; Swanton, 'Deeds of Hereward', pp. 41–2.

[91] *GH*, pp. 378–82; Swanton, 'Deeds of Hereward', pp. 43–6.

[92] *LE*, p. 180; *LEH*, p. 212.

[93] *GH*, pp. 401–2; Swanton, 'Deeds of Hereward', p. 58.

[94] Thomas, 'The *Gesta Herwardi*', 227–8.

[95] This looks like the opposite of the hardiness which was one of the virtues of noble conduct. See D. Crouch, *The Birth of Nobility: Constructing Aristocracy in England and France 900–1300* (Harlow, 2005), pp. 29–86.

Although the depiction of William de Warenne's exploits in the *Gesta Herwardi* and *Liber Eliensis* contains elements that are fanciful and meant to entertain, and was probably influenced by the hostility of the monks of Ely to William, who appears to have seized lands from them, some of its details are almost certainly true.[96] One of them is that Hereward killed William's 'brother' (actually his brother-in-law) Frederick (of Oosterzele-Scheldewindeke), an event also recorded in the independent 'Hyde' (or Warenne) chronicle, and one that makes William de Warenne's hostility towards Hereward quite logical.[97] Here was another leading magnate in the Norman regime well placed to play a part in the military operations against Hereward, whose animosity towards the outlaw is likely to have been inspired, partly at least, by the desire for revenge for the killing of a kinsman.[98] By 1086, and possibly much earlier, William held in chief estates in several counties (including Cambridgeshire, Lincolnshire and Norfolk) within or close to Hereward's sphere of operations.[99] A number of these lands were acquired by William and his wife Gundrada from her brother Frederick, after Frederick was killed by Hereward; and it has been suggested that Frederick's predecessor in many of them, the English lord Toki (Tochi/Turchil), was the same man as the Turkil (identified as Turkil of Harringworth) who was one of Hereward's companions at Ely, and that Hereward might have killed Frederick 'in retribution for the sequestration of Turkil's estates'.[100] It may be, then, that William de Warenne's

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[96] For the possible bias of the monks, see Thomas, 'The *Gesta Herwardi*', 219 n. 24. As Thomas observed, however, 'the selection of villains cannot simply be explained by Ely interests'. The Conqueror distributed Ely abbey's lands and goods that lay outside the Isle to his knights. Warenne may have profited from this, was accused of stealing vills from the monks whose hostility towards him is clear in the *Liber Eliensis*, and appears in a royal charter which suggests that he had unjustly taken the monks' possessions. See *LE*, pp. 102, 176, 186, 190, 202–4; *LEH*, pp. 207, 220, 224, 240–42; *GH*, pp. 390–91; Swanton, 'Deeds of Hereward', p. 51; *Regesta William I*, nos. 117, 119. See also *DB*, vol. 2, ff. 36v, 162r–v.

[97] *Chronica Monasterii de Hida*, p. 295; van Houts, 'Hereward and Flanders', 218; van Houts, 'The Warenne View of the Past', 104, 110–13. See also Head, *Hereward*, p. 76; and Rex, *Hereward*, pp. 61, 81–2, for the view that Hereward's hostility towards Frederick originated in Flanders.

[98] The fact that Warenne's wife, Gundrada, was Flemish and belonged to the family of the hereditary advocates of the monastery of St Bertin at Saint-Omer raises the possibility that the hostility between Hereward and the Warenne family might also have been influenced by Hereward's involvement in Flemish politics. For Gundrada, see van Houts, 'The Warenne View of the Past', 104, 116; *Early Yorkshire Charters*, vol. 8, pp. 40–46. See also Rex, *Hereward*, pp. 194–5.

[99] *DB*, vol. 1, ff. 26r–7v, 47r, 148r, 157v, 196r–v, 205v, 211v, 321r, 351v; vol. 2, ff. 36r–8r, 157r–73r, 398r–400v.

[100] Hart, 'Hereward', pp. 636–40, at p. 638; and see n. 39 above. For the descent of Toki's and Frederick's lands to William de Warenne, see *DB*, vol. 1, ff. 27r, 196r–v; vol. 2, ff. 157v–8r, 160r–v, 161v, 163r, 165r–v, 168r–70v, 171v–2v, 398r–9r; Clarke, *English Nobility*, pp. 5, 105, 107, 161, 348–9; van Houts, 'Hereward and Flanders', 218 and n. 81; C.P. Lewis, 'Warenne,

depiction in the *Gesta Herwardi* and *Liber Eliensis* as an anti-hero reflects the actual involvement of William and his family in military action against Hereward. William was certainly involved, along with Robert Malet, in the suppression of another rebellion against the Conqueror, that of Ralph de Gael, earl of East Anglia, in 1075.[101]

There are signs that other factors might also have influenced the hostility of the author of the *Gesta Herwardi* towards William de Warenne; signs that raise interesting questions about the *Gesta*'s purpose and dating. They include the titles given by the author to the English earls Edwin and Morcar, who are described as present among the rebels on the Isle of Ely. In 1071 Edwin and Morcar were the former earls, respectively, of Mercia and Northumbria, but in the *Gesta* Edwin is described as the former earl of Leicester, and Morcar as the earl of Warwick. These titles are not only incorrect but anachronistic, since the earldoms of Leicester and Warwick were post-Conquest creations whose first holders were Normans rather than Englishmen.[102] Although the error may simply have resulted from the twelfth-century author's lack of knowledge about late eleventh-century titles, there is another possible, and more political, explanation. The first earl of Leicester was Robert de Beaumont, count of Meulan (d. 1118), who used his English comital title from *c*.1107; and the first earl of Warwick was Robert's brother, Henry de Beaumont (d. 1119), who received his earldom in 1088.[103] The fact that the earls of Leicester and Warwick were both members of the Beaumont family may take us to the heart of the matter, since during the first half of the twelfth century the Beaumonts became closely related to the family of William I de Warenne.[104] It is possible that the author of the *Gesta* referred to Edwin and Morcar as the earls of

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Gundrada de (*d*. 1085)', in *ODNB*, vol. 57, p. 392. It is interesting that the Lincolnshire Turchil's estates (for which, see *DB*, vol. 1, ff. 340r, 348v, 357r, 358r–v, 370v, 377r) at Bourne, Creeton, Old Somerby and Rippingale were all held by Alfred of Lincoln in 1086.

101 Lewis, 'Warenne, William (I) de', p. 404.

102 *GH*, pp. 373, 376; Swanton, 'Deeds of Hereward', pp. 40, 42; C.P. Lewis, 'The Early Earls of Norman England', *Anglo-Norman Studies*, 13 (1991): 207–23, esp. 215–16, 221–2.

103 D. Crouch, 'Beaumont [Newburgh], Henry de, first earl of Warwick (d. 1119)', *ODNB*, vol. 4, pp. 658–9.

104 William's son William II de Warenne (d. 1138) married Isabel (also known as Elizabeth) de Vermandois, the widow of Robert, count of Meulan and earl of Leicester (d. 1118), and mother of the 'Beaumont twins', Waleran, count of Meulan and Robert, earl of Leicester; and William's granddaughter, Gundreda (daughter of William II de Warenne) married Roger, earl of Warwick, son of Henry de Beaumont, earl of Warwick. See D.B. Crouch, *The Beaumont Twins: The Roots and Branches of Power in the Twelfth Century* (Cambridge, 1986), pp. 4, 10–12, 29 and n. 2, and see pp. 42, 49, 54, 67–8, 92, 198; D. Crouch, 'Beaumont, Robert de, Count of Meulan and First Earl of Leicester (*d*. 1118)', in *ODNB*, vol. 4, pp. 673–4; D. Crouch, 'Roger, Second Earl of Warwick (*d*. 1153)', in *ODNB*, vol. 47, p. 526; C.W. Hollister, 'Warenne, William (II) de, Second Earl of Surrey [Earl Warenne] (*d*. 1138)', in *ODNB*, vol. 57, p. 406.

Leicester and Warwick in order to suggest that these prominent English aristocrats, depicted elsewhere in the text as companions of the heroic Hereward who had been wronged by William the Conqueror, had suffered the dishonourable act of disinheritance at the hands of Warenne's Beaumont kinsmen.[105] The possibility is consistent with the politics of the early years of King Stephen's reign (1135–54). The competition for power and the hostility which existed then between the Beaumonts and the family of Roger, bishop of Salisbury, who had been the most important figure in the administration of King Henry I (1100–35) and was a relative of Nigel, bishop of Ely, is well known.[106] If, as is likely, the author of the *Gesta Herwardi* was a monk of Bishop Nigel's cathedral priory of Ely, he would have had good reason to dislike the Beaumont family.[107] And if the author's composition of the *Gesta* was influenced by these feelings, it would suggest that he might have written the work, or revised it, somewhat later than the period (*c*.1109 x 1131) to which its composition is usually ascribed − though it may be that the hostility of the Beaumonts and Bishop Roger's family pre-dated Stephen's reign by some years.[108]

Turning to Gaimar's *Estoire*, a work certainly written during Stephen's reign, more examples of enemies of Hereward whose historical existence and connections with Hereward are quite plausible can be found. They include two of the men involved in Hereward's slaying, Halselin and the Breton Ralph de Dol of

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[105] *GH*, p. 376; Swanton, 'Deeds of Hereward', p. 42. Orderic states that Earl Morcar was kept in prison until the end of his life in the charge of Roger de Beaumont, the father of Robert and Henry: *The Ecclesiastical History of Orderic Vitalis*, ed. M. Chibnall (6 vols, Oxford, 1969–80), vol. 2, pp. 256–9.

[106] It came to a head at Oxford in June 1138. At the instigation of Waleran, count of Meulan, son of Robert de Beaumont, count of Meulan and earl of Leicester, King Stephen arrested Bishop Roger and Roger's relative Alexander, bishop of Lincoln, at his court. Nigel, bishop of Ely, escaped to Roger's castle of Devizes, where he was besieged and forced to surrender by the king. All three bishops were then deprived of their castles. See E.J. Kealey, *Roger of Salisbury: Viceroy of England* (Berkeley, 1972), pp. 173–89.

[107] Although serious tensions and conflict existed at times between the monks of Ely and Bishop Nigel over particular issues, it is clear that they also had significant shared interests: see *LE*, pp. 283–305, 314–19, 322, 324–41, 344–62, 373–9, 381–7, 390–91; *LEH*, pp. 346–7, 349–72, 388–93, 397, 400–419, 424–47, 462–8, 471–8, 482. The hostility of another author, Henry of Huntingdon (who wrote his history at the behest of Nigel's kinsman Alexander, bishop of Lincoln), to the Beaumont/Warenne family is clear. See *Henry of Huntingdon, Historia Anglorum*, pp. 463, 598–9, 612–15, 728–31, 736–7, and 730–31 n. 89. See also Crouch, 'Beaumont, Robert de', p. 674; Crouch, 'Roger, Second Earl of Warwick', p. 526.

[108] Thomas preferred to date the *Gesta* to 1109 x 1174: 'The *Gesta Herwardi*', 217; and Roffe stated that it 'was apparently written in the mid twelfth century': Roffe, 'Hereward "the Wake"', 7 (citing *LE*, pp. xxxvi, 173 n. 2). It is interesting that the Hereward who appears in Domesday Book holding lands in Warwickshire held most of them from the count of Meulan: *DB*, vol. 1, ff. 240r–41v.

Tutbury.[109] The significance of Ralph's association with Tutbury, the chief seat of Henry de Ferrers who succeeded to the estates of Hereward's companion Siward Barn and may be represented in the *Gesta Herwardi* as Ulcus Ferreus, has already been noted.[110] It is even possible that Ralph was a tenant of Henry de Ferrers, since a Roald held land from Henry in the Leicestershire village of Gopsall in 1086, a Ralph did so at Badgemore in Oxfordshire, and a Ralph was his tenant at Ecton in Northamptonshire – though Ralph was a very common French aristocratic name.[111] It is also significant that Halselin's name is very similar to that of a Norman Domesday tenant-in-chief, Geoffrey Alselin, who was certainly closely linked with Henry de Ferrers. Geoffrey Alselin claimed a manor at Scropton in Derbyshire which was in Henry de Ferrers's possession in 1086, appears to have been a tenant then of Henry in Thulston in the same county, and may have been the same man as, or a relative of, the Geoffrey *Halselinus* who witnessed a *conventio* between Henry de Ferrers's son Robert I de Ferrers and Geoffrey, abbot of Burton, in the 1120s.[112] Most of the estates held by Geoffrey Alselin in chief in 1086 in Derbyshire, Leicestershire, Lincolnshire, Northamptonshire, Nottinghamshire and Yorkshire were held in 1066 by an English lord whose name, Toki, is regarded by Hart as one of the variants of the first name of Hereward's companion Turkil.[113]

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[109] *EE*, p. 180; *Lestorie*, vol. 1, pp. 238–42; vol. 2, pp. 178–80.

[110] See p. 23 above.

[111] *DB*, vol. 1, ff. 157v, 225r, 233r. I have been unable securely to identify Ralph de Dol. The Ferrers family had links with Brittany: Jones, 'The Charters of Robert II de Ferrers', 8–9, 16; but see also Jones, 'Ferrers, Robert de', pp. 431–2. The Oger who held Bourne in 1086 and estates previously held by Hereward, was a Breton, and it has been suggested that Alfred of Lincoln (see p. 8 n. 5 above) was too: *DB*, vol. 1, f. 364v; Keats-Rohan, *Domesday People … Domesday Book*, p. 141. For the suggestion that Ralph was possibly a son of Oger the Breton, see Rex, *Hereward*, p. 156. An alternative possibility is that Ralph de Dol was Ralph de Gael, earl of East Anglia, who had strong links with Brittany and Dol, but the earl does not appear to have been connected with Tutbury. See A. Williams, 'Ralph [*called* Ralph de Gael, Ralph Guader], Earl (*d*. 1097x9)', in *ODNB*, vol. 45, pp. 869–70. A Walter de Dol appears in the Suffolk Domesday fee of Robert Malet, one of Hereward's enemies: *DB*, vol. 2, ff. 321r, 322r.

[112] *DB*, vol. 1, ff. 247v, 275v; *English Lawsuits*, vol. 1, no. 252. A Geoffrey *Halsalin* from Nottinghamshire fought alongside Robert I de Ferrers against the Scots at the battle of the Standard in 1138: *Chronicles of the Reigns of Stephen, Henry II, and Richard I*, ed. R. Howlett (4 vols, Rolls Series, London, 1884–89), vol. 3, p. 162.

[113] *DB*, vol. 1 ff. 219r, 227r, 235v, 247v, 275v, 276v, 280r, 289r–v, 326r, 336r, 369v, 373v; and see nn. 39 and 100 above. It has been noted that Geoffrey 'was possibly related to the Halselin or Hanselin who was a knight of William de Braose (Briouze, Orne) in Sussex': Keats-Rohan, *Domesday People ... Domesday Book*, p. 224. For more on the descent of Geoffrey's estates, see Sanders, *English Baronies*, p. 76; Keats-Rohan, *Domesday Descendants II*, p. 1003. In the twelfth century, members of the Alselin/Halselin family were benefactors of Lincolnshire monasteries: *English Episcopal Acta I: Lincoln 1067–1185*, ed. D.M. Smith (Oxford, 1980), no. 37; B. Golding, *Gilbert of Sempringham and the*

And the Lincolnshire estates held by Toki and Geoffrey were nearly all situated less than 25 miles to the north and north-west of Bourne, the home of Hereward's father.[114] It is also noteworthy that Geoffrey Alselin was the lord in North and South Muskham (Notts.) of men who were possibly brothers of Abbot Brand of Peterborough, the prelate who, according to the *Gesta Herwardi*, knighted Hereward, and who appears in the *Historia Croylandensis* as Hereward's uncle; and that an argument has been made that another of Brand's brothers, Asketil son of Toki, was Hereward's father.[115] Whether this is correct or not, there are nevertheless a number of links between Geoffrey Alselin and Hereward. They are significant enough to suggest that the men depicted by Gaimar as attacking and killing the outlaw were real people involved in the military operations against him, and that the story contains important elements of truth. And they add to the evidence indicating that the Normans who fought against Hereward and his companions were granted or seized the lands of the outlaws, and that Henry de Ferrers and some of his men were prominent amongst them.

Gaimar's account of Hereward's death is also significant because it suggests that the author was intent not just on naming Hereward's attackers but also on shaming them, and that (as in the case of the *Gesta Herwardi*) his account was influenced by twelfth-century political considerations. It depicts the initial assault on Hereward taking place by surprise while he was eating and unprepared for combat, and implies that the men responsible were dishonourable. While Gaimar may have been intent in this on maximising Hereward's heroic qualities by employing a common dramatic convention used by writers of heroic literature, he may also have been influenced by the political antagonisms of Stephen's reign. Gaimar's literary patrons, the Fitz Gilberts, were tenants of Gilbert II de Gant and his wife Rohese of Clare, relations of the powerful earl of Chester, Ranulf II, who held extensive estates in Lincolnshire; and Gaimar's writing reveals a favourable attitude towards the Clare/Chester family.[116] It is significant, then, that there are strong signs that Ranulf II, earl of Chester, was hostile for part of Stephen's reign to Alan, earl of Richmond, a powerful Breton lord who held an extensive Lincolnshire fee, and that Ranulf was probably also a political rival of Robert II de Ferrers, lord of Tutbury, grandson of Henry de Ferrers.[117] It could well be,

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Gilbertine Order c. 1130–c. 1300 (Oxford, 1995), pp. 202–3, 208; *Documents Illustrative of the Social and Economic History of the Danelaw from Various Collections*, ed. F.M. Stenton (London, 1920), no. 253.

[114] *DB*, vol. 1, ff. 369v–70r; Hart, 'Hereward', p. 638.

[115] Rex, *Hereward*, pp. 39–50.

[116] Dalton, 'The Date of Geoffrey Gaimar's *Estoire*', 32–9.

[117] For Ranulf's hostility to Alan, and Alan's Lincolnshire estates, see *Gesta Stephani*, ed. and trans. K.R. Potter and R.H.C. Davis (Oxford, 1976), pp. 116–17; *DB*, vol. 1, ff. 347r–8v. Robert II de Ferrers succeeded his father Robert I, son and heir of Henry de Ferrers, by September 1139. The famous *conventio* made by Earl Ranulf with Robert, earl of Leicester, dated 1148 x 1153, indicates that Ranulf and Robert II de Ferrers were

therefore, that Gaimar's wish to highlight the dishonourable deeds of the Breton Ralph de Dol and his accomplice Halselin sprang, partly at least, from a wish to serve the interests of the dominant political masters of his Fitz Gilbert patrons.[118]

Conclusion

It is clear that substantial evidence exists, beyond the *Gesta Herwardi*, *Estoire des Engleis* and *Liber Eliensis*, which suggests that many of the Englishmen named in these sources as Hereward's companions were real historical figures linked by a variety of associations with the outlaw and with the regions where he possessed lands or held out against the Normans. The evidence reinforces the impression given by these sources that Hereward, as might be expected, drew some of his supporters from his kinsmen and neighbours, and from those who, like him, were associated with the great abbeys of the Fenland region, including Peterborough. It also helps to explain William the Conqueror's decision to send Turold, a military abbot, with 160 soldiers to take charge of Peterborough abbey in 1070, and the king's subsequent imposition of heavy military service quotas on this monastery and others nearby.[119] As for Hereward's French enemies, it is clear that most of them were leading magnates in William the Conqueror's regime and just the sort of men we might expect to be involved in operations against English rebels and outlaws. Most of them had, or soon acquired, extensive administrative, jurisdictional, tenurial and military interests within or close to the regions where Hereward was active. Some of them were related to each other and had suffered

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allies: Stenton, *First Century*, pp. 250–53, 286–8. However, they may formerly have been enemies. They were probably rivals for power in the midlands, where both held considerable lands, and their alliance appears to have been short-lived. Robert II de Ferrers is unlikely to have welcomed Ranulf securing a grant in 1153 from Henry, duke of Normandy, of Stafford and Staffordshire (the county in which Tutbury was situated), and other midland possessions: *Regesta*, vol. 3, no. 180. Not long afterwards Robert II was besieged by Duke Henry at Tutbury on the advice of Henry's counsellors, especially the earl of Leicester, and joined the duke's side: *Gesta Stephani*, pp. 234–5. Davis thought the Ferrers–Chester alliance 'a temporary convenience': R.H.C. Davis, *King Stephen* (3rd edn, London, 1990), p. 109. Gilbert II de Gant could also have been a regional rival of Robert II de Ferrers in Nottinghamshire and Derbyshire, where both of them held lands and Robert held the comital title. See *DB*, vol. 1, ff. 274r–6r, 277v, 290v, 291v; Jones, 'The Charters of Robert II de Ferrers', 7–26.

[118] Significantly, the barony of Bourne was acquired in the mid-twelfth century by Hugh Wake, a retainer of Ranulf of Chester, through marriage to the daughter of Baldwin Fitz Gilbert of Clare, Rohese of Clare's uncle. Wake's family name eventually gave rise to Hereward's cognomen. See King, 'Origins of the Wake Family', 166–76; King, *Peterborough Abbey*, pp. 21–2.

[119] On this, see King, *Peterborough Abbey*, pp. 10–16; Chibnall, *Anglo-Norman England*, pp. 30–32.

the killing of their kinsmen by Hereward or his fellow rebels. And several of them are known to have succeeded to the confiscated estates of these rebels and played a prominent part in putting down other uprisings.

All of this reinforces recent scholarship which suggests that some of the information about Hereward and his activities within the *Gesta Herwardi*, *Estoire des Engleis* and *Liber Eliensis* is more credible than has hitherto been supposed. While it remains true that these sources were greatly influenced by heroic and romantic literary conventions, a desire to entertain and imaginative invention, there are now even stronger grounds for believing that the stories they tell were also based, to some extent, upon actual events and the deeds of real people, and that their authors wove important strands of historical truth into their complex literary tapestries. Somewhat paradoxically, perhaps, there is also more reason to regard them as being influenced by contemporary political bias. In the cases of the *Gesta Herwardi* and *Liber Eliensis* the bias was directed, in part, against William I de Warenne, an enemy of Ely abbey and a near kinsman of the Beaumont lords who were hostile during Stephen's reign to the family of Nigel, bishop of Ely; and it suggests that the *Gesta* might have been written somewhat later than the period (*c*.1109 x 1131) to which its composition is usually ascribed. Similarly, in Gaimar's *Estoire* the naming and shaming of Hereward's killers may well reflect a desire on the part of the author to impugn the reputations of the families and associates of Alan, earl of Richmond, and Robert II de Ferrers who were sometime enemies of Ranulf II, earl of Chester, the political overlord of Gaimar's Fitz Gilbert patrons. It is clear from all of this that a closer examination of the companions and enemies of the outlaw Hereward 'the Wake' named in the three twelfth-century sources on which this chapter has primarily focused, has very serious implications. These relate to our knowledge and understanding not only of those who played a part in Hereward's story, but of Hereward's identity and deeds, the history and impact of the Norman invasion of 1066, political and tenurial conflict in England during the century that followed, and the nature, purposes, veracity and dating of the construction of the Hereward legend.

Chapter 2
Outlawry as an Instrument of Justice in the Thirteenth Century

Susan Stewart

This chapter will examine the use of outlawry as a penalty for felony during the thirteenth century. The structure of the justice system as established in the later twelfth century will be outlined. The early years of Henry III's reign saw the revival of law and order through visitations of the justices in eyre. The use of outlawry will be illustrated from contemporary sources, from *Bracton On the Laws and Customs of England* and from the records of the general eyres of Henry III, drawing mainly on the rolls of the Surrey eyres and other counties available in print.[1] The exemptions relating to clerks in holy orders and the hazard of sheltering an outlaw will be examined. Outlawry as it affected women, outlawry and forest law, the effect of outlawry on possession of land, and abjuration will be discussed. The concluding section suggests that the effectiveness of outlawry was diminishing by the end of the thirteenth century and discusses reasons for this.

The Structure of the Judicial System of Henry II

The foundations and structure of the administration of justice in the thirteenth century were firmly laid by the great reforms of Henry II during the years 1154–89. In rebuilding the king's authority and re-establishing the king's peace after the chaos of Stephen's reign, the system already in embryo in the reign of Henry I was shaped and articulated in the local hundred and shire courts and in the central institutions of Chancery, Exchequer and law courts. Sheriffs and coroners were the key law officers in the shires, holding county courts and inquests and overseeing the hundred courts through regular views of frankpledge to ensure that every man was locked into the mutual supervision and support of a tithing. Royal justices brought the king's power to the localities in the form of regular visitations known as eyres. The eyre heard all pleas, both pleas of the crown, that is those matters concerning crime and administration and finances which concerned the king, and common pleas, that is disputes concerning land, money, personal injury and

[1] *Bracton On the Laws and Customs of England*, ed. G.E. Woodbine, trans. with revisions and notes by S.E. Thorne (4 vols, Cambridge, MA, 1968–77).

inheritance between litigants who were able to purchase writs in Chancery with which to pursue their legal actions.

In 1166, by the Assize of Clarendon, the king ordered close investigation by the itinerant justices into the state of local law and order:

> Inquiry shall be made throughout every county and every hundred, through twelve of the more lawful men of the hundred and through four of the more lawful men of each village upon oath that they will speak the truth, whether there be in their hundred or village any man accused or notoriously suspect of being a robber or murderer or thief, or any who is a receiver of robbers or murderers or thieves, since the lord king has been king.

The list of articles carried by the itinerant justices grew longer and longer, examining every aspect of royal rights and the king's peace. The law distinguished between men who were law-worthy, acting within the law, or outlaw, and decreed that if a man accused of felony fled, he should be outlawed. The Assize of Clarendon laid a clear duty on sheriffs:

> And if any sheriff shall send word to another sheriff that men have fled from his county into another county, on account of robbery or murder or theft or the harbouring of them, or on account of outlawry or of a charge concerning the king's forest, let him arrest them and guard them until he has taken safe sureties for them.

This, then, was the developing system of royal justice that had to face the troubles of King John's reign, the impact of war and foreign invasion, and the accession of a nine-year-old in 1216.[2]

The Revival of the General Eyre under Henry III

The monk writing the Annals of Waverley abbey for the year 1219 recorded, 'In this year, peace and stability having returned to England, the justices, commonly called itinerant, after Christmas went through the whole of England, reviving the

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[2] J. Hudson, *The Formation of the English Common Law: Law and Society in England from the Norman Conquest to Magna Carta* (London and New York, 1996), gives a clear and very readable overview of its subject. The classic work is F. Pollock and F.W. Maitland, *The History of English Law before the Time of Edward I* (2 vols, 2nd edn, Cambridge, 1968). See also P. Brand, "'*Multis Vigilis Excogitatam et Inventam*": Henry II and the Creation of the English Common Law', chapter 4 in his *The Making of the Common Law* (London, 1992). The Assize of Clarendon can be found in *Select Charters and other Illustrations of English Constitutional History from the Earliest Times to the Reign of Edward I*, ed. W. Stubbs, revised by H.W.C. Davis (Oxford, 1913), pp. 167–73.

laws and ensuring that they were observed in the pleas before them according to the charter of King John.'[3] Thus was recorded the eyre of 1218–22, the first eyre of the reign of Henry III. Dunstable priory had the privilege of being a liberty so the prior was in charge of the visitation, as recorded by the annalist at the priory:

> In this year, on St Benedict's Day, Prior Richard held at Dunstable his court of pleas of the crown and articles (of the eyre) before the justices itinerant. Stephen (Seagrave) and Maurice (Audley), royal justices sat with him and they made their oaths. Then the court heard pleas of the crown, namely concerning treasure trove against Godfrey Maschun, likewise *novel disseisins* and escape of prisoners and death of many and dowers of women.[4]

The visitations of the justices in eyre to Bermondsey in Surrey and to Dunstable were part of the general eyre of 1218–22; this general eyre was of crucial importance in reviving the authority of royal government following the wars and general disorder at the end of John's reign. The accession of nine-year-old Henry III put the burden of restoring royal power and the king's peace on his regent, William Marshal, and his justiciar, Hubert de Burgh.[5] The revival of the general eyre was a crucial factor in the establishment of law and order throughout the realm, and equally necessary as an instrument of raising royal revenue.[6] Teams of justices, often led by bishops, toured the country from 1218 to 1222, visiting 35 counties and London, armed with the articles of the eyre and empowered to bring justice and order into all parts of the country.[7] As well as the established article 'concerning outlaws and fugitives and if they return without warrant', a new article to strengthen the enforcement of law and order was added 'concerning those who do not pursue as they ought outlaws and burglars who travel through their lands'.[8]

The eyre of 1218–22 was successful both in restoring the visibility of royal justice and in raising much needed revenue. It was repeated at regular, usually seven year, intervals throughout the reign of Henry III. The 11 general eyres of his

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[3] *Annales Monastici*, ed. H.R. Luard (5 vols, Rolls Series, 1864–69), vol. 2, p. 291.

[4] Ibid., vol. 3, p. 55. Investigations of treasure trove were listed as article 13 of the articles of the eyre, but were held relatively rarely; for the annalist to make this record, it must have been a local cause célèbre. Escapes were covered by article 32. *Novel disseisin* and dower cases were civil pleas. For articles of the eyre, see *The 1235 Surrey Eyre: Vol. 1 Introduction*, ed. C.A.F. Meekings, prepared for press by D. Crook (Surrey Record Society, 31, Guildford, 1979).

[5] D.A. Carpenter, *The Minority of Henry III* (London, 1990), pp. 93–103.

[6] There had been no general eyre since 1208–09 and there may have been those who would have preferred for it not to be revived, Carpenter, *Minority*, p. 97.

[7] The visitations of the eyre to the City of London were less frequent than those to the counties; London eyres took place four times during the reign of Henry III, in 1221, 1226, 1244 and 1251.

[8] *The 1235 Surrey Eyre*, articles 22 and 23 on p. 92.

reign, some of which visited more than 30 counties, in all held 281 eyre sessions in 38 counties.[9] The justices itinerant held civil pleas, hearing cases brought before them by litigants who had purchased chancery writs. They held crown pleas, based on the articles of the eyre, brought before them by the county coroner and by the juries representing the hundreds within the county. The eyre brought royal justice to the shires, and collected revenue for the king's exchequer in the form of amercements, fines and confiscations. Its arrival at the county town was a statement of royal authority, feared by the wrongdoer but given a cautious welcome by the victims of wrongdoing.

The Penalty of Outlawry

By the early thirteenth century, murder, homicide, arson, robbery, rape, maiming, wounding, burglary and larceny were categorised as felonies, that is serious crimes breaching the king's peace and dealt with by the king's court before the royal justices.[10] Often, as will be demonstrated, those accused of crime or wrongdoing and summoned to answer before the justices for their crime failed to appear. Rather than face the uncertainty of trial, they simply ran away. The court's response to the absconding felon was to proclaim him an outlaw.[11] He would be summoned to appear at four county court sessions.[12] At the fifth court, if he still failed to appear, his outlawry would be confirmed. The repeated presentations would ensure that everyone knew who were suspects and who were outlawed, and against whom the hue and cry should be raised.[13]

In the great early thirteenth-century treatise describing the laws and customs of England attributed to Henry Bracton, the subject of outlawry is discussed in detail. The writer explains that 'outlawry may be declared void for many reasons', such as when an alleged murder victim is produced alive.[14] But those who fled believed that their safest route was to escape to the depths of the forest, and then possibly to emerge at some later date to a vill or better still a town where their face and history were unknown. For, as *Bracton* wrote, after the proclamation of outlawry,

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[9] D. Crook, *Records of the General Eyre* (Public Record Office Handbook, 20, London, 1982).

[10] Hudson, *Formation of the English Common Law*, pp. 160–64.

[11] For women, the process was different, as will be explained later.

[12] The London process of outlawry was different; the runaway was proclaimed outlaw at three courts which were held at intervals of a fortnight, and if the fugitive had not appeared his outlawry was confirmed at the folkmoot at St Pauls. The roll records that the fugitive is to be exacted and outlawed 'according to the custom of the City': *The London Eyre of 1276*, ed. M. Weinbaum (London Record Society, 1976), p. xviii and *passim*.

[13] H.R.T. Summerson, 'The Structure of Law Enforcement in Thirteenth Century England', *The American Journal of Legal History*, 23 (1979): 313–27.

[14] *Bracton*, vol. 2, p. 357

> henceforth they bear the wolf's head and in consequence perish without judicial inquiry; they carry their judgment with them and they deservedly perish without law who have refused to live according to law. This is so if they take to flight or resist when they are to be arrested; if they are arrested alive or give themselves up, their life and death will be in the hands of the lord king.[15]

Outlawry at the Eyre

The majority of outlaws arising from an eyre were those named by juries or witnesses as suspected of crime and who had fled rather than risking instant hanging by coming before the justices. At the Surrey eyre of 1263, of 227 persons accused of crime, 122 (55 per cent) failed to appear. Of these, 116 were pronounced guilty; their chattels, if any, were confiscated and they were to be proclaimed outlawed in the next five county courts. The other six absconders were declared not guilty of their crimes and allowed to return, but they would forfeit their chattels (if any).[16] A typical entry in the eyre roll, under the hundred of Reigate, records:

> Concerning those indicted, they say that Robert Russell, William son of Juliana and John Wolfwyne absconded and John is suspected, so he is to be exacted and outlawed. And Robert and William are not suspected so they may return if they wish, but their chattels are confiscated on account of their flight.[17]

A record of a presentment from the coroner's roll in the hundred of Kingston gives details of a murder:

> Walter de la Fougle struck William son of David Turold of Walton [on Thames] on the head with a stick from which he immediately died. And Walter at once fled and was suspected so he is to be exacted and outlawed. He had no chattels nor was he in a tithing because he was from the county of Kent.[18]

Another entry for the hundred of Reigate illustrates the danger of reappearing still 'bearing the wolf's head': 'William Denner, common robber and outlaw, was pursued with hue and cry in the time of David of Jarpenville, then sheriff, and

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[15] Ibid., p. 354.

[16] *The 1263 Surrey Eyre*, ed. S. Stewart (Surrey Record Society, 40, Guildford, 2006), p. lxxx.

[17] Ibid., no. 588, p. 282. Each adult male belonged to a tithing, a group who had to answer for each other's behaviour. The tithings of Robert, William and John were all amerced for their negligence and for the benefit of the royal exchequer.

[18] Ibid., no. 612, p. 290. The unfortunate hundred was unable to prove Englishry, that is that the victim was of English descent so they were collectively amerced – for the benefit of the royal exchequer.

before the coroner by suit of the country was beheaded being a fugitive. He had no chattels but he had land…'.[19] William's land, worth 21 shillings a year, was later reclaimed by his lord for a fine of 2 marks (£1 6s. 8d.) for the further benefit of the royal exchequer.

Criminals and suspects could be brought before the justices in eyre by presentment and by indictment by the hundred juries. They could also be brought by individuals by appeal. Appeals were often used by women to prosecute those who had done them injury.[20] An appeal by Lucy de Linde against Nicholas Thoche of Lingfield for the death of her husband in the Surrey eyre of 1235 shows how an appeal could bring redress. Nicholas was found guilty by the 12 jurors and, having fled, was exacted and outlawed. He was, however, a man of substance, holding a fee of half a knight in Lingfield, and his subsequent history can be traced.[21] In the 1244 Dorset eyre, a murder is attributed to Nicholas of Lingfield, a stranger, of the household of William Marshal, earl of Pembroke. Again Nicholas had fled and again he was outlawed.[22] In March 1246, Nicholas was back in Surrey and the sheriff was ordered to arrest him.[23] Nicholas stood trial at the 1248 Surrey eyre and, despite already being twice an outlaw, offered a substantial fine to remain free – which remained a debt on the Pipe Rolls for many years.[24] At the 1255 Surrey eyre, it was reported that he had been killed by a certain William Bolimer in Lingfield and that William had fled, and been outlawed by appeal of Nicholas's widow.[25]

How to Gain a Pardon

William Denner did not know the right people or the right processes by which he could cancel his outlawry; Nicholas Thoche successfully ignored the penalty exacted against him. Reginald le Panetur, however, knew the right people and the right processes. Reginald was a vintner of Farnham (part of the lands of the bishop of Winchester) and a freeholder. He was involved in a brawl in the churchyard at Shere in the early spring of 1258, a brawl which turned out to be the trigger for the great confrontation between Henry III and his barons which in turn led to the period of rebellion and reform. The brawl, later dignified into a battle, was between the men of John FitzGeoffrey, a leading baron in conflict with the king,

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19 Ibid., no. 585, p. 281.

20 L. Wilkinson, *Women in Thirteenth Century Lincolnshire* (Woodbridge, 2007), pp. 144–9; *The 1263 Surrey Eyre*, pp. cix–cxii.

21 *The 1235 Surrey Eyre: Vol. II Text, Translation and Notes to Text*, ed. C.A.F. Meekings and D. Crook (Surrey Record Society, 32, Guildford, 1983), pp. 380 and 519.

22 TNA, JUST 1/201, m. 3.

23 *CR 1242–47*, p. 399.

24 TNA, E 372/72, rot 3.

25 TNA, JUST 1/872, m. 38d.

and the men of the Aymer de Lusignan, bishop of Winchester, the Poitevin half-brother of Henry III, much disliked by the barons.[26] During the fight, Philip Alfoh was killed, and as was his right, his brother, also called Philip, accused Reginald in the county court, together with all those involved. Their appeal was successful and all the absentees were outlawed. Reginald knew the processes and the people to remedy his situation. Through the patronage of William de Valence, brother to Aymer bishop of Winchester and another half-brother of Henry III, he secured a royal pardon for his outlawry.[27] Only after this pardon had been presented to the justices in eyre and had passed unchallenged could Reginald feel totally safe. The eyre roll recorded what happened:

> The jurors present that Reginald le Panetur was outlawed in the county court for the death of Philip Alfoh and for robbing him imputed by suit of Philip his brother. And Reginald now comes and proffers letters patent from the King in which it is stated that the lord King has pardoned Reginald the outlawry pronounced on him concerning the death of Philip Alfoh and for the trespass imputed to him concerning a certain robbery committed at Shere, whereof Reginald was charged, and has granted to him his sure peace; however, he stands to right in the court, if anyone wishes to speak against him. And because there is not anyone present who brings suit against him, let him be quit thereof.[28]

As no objection was raised, Reginald left the eyre a free man, restored to all his chattels and rights.

Geoffrey of Rockingham, a knight owning estates in Rutland and Northamptonshire, in 1251 was imprisoned and then pardoned by the king for killing Peter le Escot. His pardon was read out in Rutland county court in 1252 where no one came to challenge him to defend the killing. But his pardon had to be confirmed at the next Rutland eyre in September 1253. At that time Geoffrey was fighting for the king in Gascony, and although his brother-in-law took the letter of pardon to show the court, the justices taking the crown pleas were not satisfied because he failed to come in person and 'stand to right in the court'. The justices ordered that Geoffrey should be exacted and outlawed for the murder of Peter le Escot.[29] I will return to the consequences of Geoffrey's outlawry later.

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[26] D.A. Carpenter, *The Reign of Henry III* (London and Rio Grande, 1996), chapter 9; S. Stewart, 'What Happened at Shere?', *Southern History*, 22 (2000): 1–20.

[27] *CPR 1258–66*, p. 180.

[28] *The 1263 Surrey Eyre*, no. 691, p. 328.

[29] C.A.F. Meekings, *Studies in 13th Century Justice and Administration* (London, 1981), pp. II, 615–16**;** TNA, JUST 1/1187, m.14, repeated in KB 26/168, m. 17d; *CPR 1247–58*, p. 140.

Outlawry and the Clergy

In 1263, Henry le Summoner was on the brink of disaster. The eyre roll records:

> Henry le Summoner of Southwark struck Nicholas le Porter in the head with a scythe in the street of Southwark so that he immediately died of it. And Henry at once fled and is suspected, so he is to be exacted and outlawed. His chattels are worth 5s. 1d. for which the sheriff is to answer.[30]

The future was looking bleak for Henry. Then it came to him – perhaps someone reminded him – he was a clerk in holy orders; not a priest but a lowly messenger who handed out the bishop's summonses, a role still good enough, however, to give him the status of a clerk, which made him untouchable by the king's court. While the eyre was still in session he came back before the justices who asked him how he wished to acquit himself of the death: 'He says that he is a priest and that he cannot answer here. And upon this comes the dean of Guildford, proctor of the bishop of Winchester, who was present, and claims him as a clerk'.[31] Henry was brought quickly before the bishop's court where he swore that he was innocent of the murder. On 8 May 1263, the king issued his orders to the sheriff of Surrey:

> Concerning Henry the Summoner. Because the king accepts by letters patent from the reverend bishop of Winchester that Henry called the Summoner, a clerk of his diocese, was accused before our justices itinerant last in the country of Surrey of the killing of Nicholas the Porter and detained in our prison in Guildford and after he was claimed by the bishop himself by reason of privilege of clergy and freed to him, the said Henry purged himself before the bishops following church law and custom and proved his innocence of the crime canonically and lawfully. And so the sheriff of Surrey is ordered that the lands, house and chattels which by reason of the accusation were taken into our hand should be returned to him without delay by our special grace.[32]

Occasionally clerks seem not to have requested, or been claimed by, the church courts. For example, the roll of the Berkshire eyre of 1248 records that a clerk named Nicholas de Nodariis and six other men were indicted and had fled. Three of them were not suspected by the jurors but Nicholas and two others 'are guilty of homicide and larceny so they are to be exacted and outlawed. They had no chattels. Nicholas was not in a tithing because he was a clerk.'[33] Another short record tells a sad story: 'Alice of Wulvreuehampton, who has died, appealed Walter le Norreys

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30 *The 1263 Surrey Eyre*, no. 537, p. 259.

31 Ibid., no. 545, pp. 261–2.

32 *CR 1261–64*, p. 230.

33 *The Roll and Writ File of the Berkshire Eyre of 1248*, ed. M.T. Clanchy (Selden Society, 90, London, 1973), no. 872, pp. 345–6.

of rape and robbery and breach of the king's peace and Walter has been outlawed in the county court by Alice's suit. He had no chattels, nor was he in a tithing because he was a clerk.'[34]

Harbouring an Outlaw

To harbour and give shelter to a fugitive was a crime and harbouring an outlaw was a more serious offence. *Bracton* comments:

> in ancient times [an outlaw] used to be called a 'friendless man' from which it is apparent that he forfeits his friends. Hence if anyone wittingly feeds him after his outlawry and expulsion, or harbours him or communicates with him in some way or hides or keeps him, he ought to receive the same punishment as the outlaw.[35]

The record for Godley hundred shows that Gregory de la Strode and Parnel his wife were arrested for harbouring an outlaw, Walter de Middleton. They came before the justices and convinced the jury that they were innocent. John Hardwyne at the same time was arrested for harbouring his sons, Alexander and Adam, who had fled after killing John le King at Chertsey fair. He too was acquitted of harbouring, but his sons were exacted and outlawed.[36] For relatives and friends of fugitives and outlaws, it must have been difficult to measure the risks involved in sheltering them and often heartbreaking to have to turn their backs on their loved ones.

Women and Outlawry

The interface between women and outlawry was very different from that experienced by men.[37] A woman could bring a man to court by appeal 'for a forcible harm done to her body, as for rape, and for the death of her husband slain within her arms'.[38] If a woman could persuade the jury to bring in a guilty verdict, the perpetrator of the crime, if he had fled, was outlawed. Three successful appeals in the county court made by widows against the murderers of their husbands were reported at the Surrey eyre of 1263.[39] The six men involved in the crimes had all fled and consequently been outlawed. If the accused had denied responsibility for

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[34] Ibid., no. 868, p. 344.

[35] *Bracton*, vol. 2, p. 361.

[36] *The 1263 Surrey Eyre*, nos. 675 and 676, p. 319.

[37] Wilkinson, *Women in Thirteenth Century Lincolnshire*, pp. 142–64, in which she cites the experiences of criminal women from the Lincolnshire eyres of 1202 and 1281–84.

[38] *Bracton*, vol. 2, p. 419.

[39] *The 1263 Surrey Eyre*, no. 655, pp. 311–12, no. 665, p. 316, no. 670, p. 317.

the killings, and given sureties, the appeals would have been brought before the eyre justices for determination. Although a woman by appeal could cause a man to be outlawed, a woman could not herself be outlawed, not because of any special leniency towards women but simply because in law she did not exist. Like a child, she was outside the law. *Bracton* states:

> A minor, one who is under twelve years of age, cannot be outlawed or put outside the law because until he reaches that age he is not under any law nor in a tithing, any more than a woman, who cannot be outlawed because she is not under the law, that is, in frankpledge or tithing, as is a male of twelve years and upwards; thus she cannot be outlawed, but when she has taken to flight for a felony, she may well be waived and regarded as one abandoned, for waif is that which no one claims, nor will the prince claim her or protect her when she has been properly waived … [40]

Whereas a minor who ran away after committing an accidental act which could be interpreted as a crime, could be told to return without penalty, a woman who had been waived had no redress. She was a non-person within the law and a non-person outside the law.

Appeals made by women for rape were rarely successful. The men concerned always denied the charge and the women were obliged to repeat their stories in exactly the same terms at each hearing of the county court and at the eyre. Neither Alicia of Welbridge nor Reynilda de Rushe appeared before the justices in eyre at Guildford: Alicia had appeared at only one county court and Reynilda at two.[41] Alice of Wulvreuehampton's appeal as already mentioned was successful, though she did not live to see justice done. For a limited period in the mid-thirteenth century, women were allowed to bring appeals for crimes other than death of a husband and rape. A widow Agnes in the Shropshire eyre of 1256 was a successful appellant. She appealed eight men, alleging that they tried to break into her house in the middle of the night.[42] One of them was a clerk who claimed his right to be handed over to the ecclesiastical authorities. The other seven denied everything, and having good advice or perhaps knowing the strict letter of the law, 'they ask it to be awarded to them that Agnes is a woman and can appeal in two situations only (that is death of her husband and rape). So it is decided that the appeal is null.' However, the court, in the person of the royal justice, was perhaps wiser and cleverer than the accused. The verdict was that the men did not commit a felony or any robbery just by breaking into Agnes's house, '[b]ut since they did it by night and against statutes of the Realm, they are to be committed to gaol'. They evaded

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[40] *Bracton*, vol. 2, pp. 353–4.

[41] *The 1263 Surrey Eyre*, no. 638, p. 299, no. 667, p. 316.

[42] *The Roll of the Shropshire Eyre of 1256*, ed. A. Harding (Selden Society, 96, London, 1981), no. 566, pp. 215–16.

outlawry and when they had made their fine of 40 shillings they were free to go, but some measure of justice and satisfaction for Agnes was achieved.

Outlawry and Forest Law

The passion of Norman and Angevin kings for hunting the deer and for maintaining exclusive hunting rights in vast areas of designated forest carried with it a set of laws regarding the use of the forest which greatly oppressed the many who owned land, or lived and worked, within the forest. The excessive new afforestations by Richard I and John were among the sources of grievance addressed by Magna Carta, and more significantly by the Charter of the Forest, a separate charter issued in 1217 by the minority government of Henry III. Specifically, the Charter addressed the issue of penalties for infringements of forest law and laid down that no one in future was to suffer loss of life or limb for breaking a law of the forest. The worst that could follow arrest for a forest offence was a short imprisonment followed by a fine. The penalty for absconding was outlawry. The amelioration of the penalties for forest offences was one which benefited all sections of society.[43]

The royal forest under its special regime of law was overseen by its own set of eyres, recorded in forest eyre rolls of which relatively few survive.[44] From those that remain, it is clear that poachers in the forest were difficult to catch and bring to justice. A poacher could be outlawed, but this did not necessarily stop him poaching. A report in the Huntingdon forest eyre of 1255 demonstrates how outlaws could change their names in an attempt to defeat the processes of royal justice. Hugh le Fekere was sent to Huntingdon gaol for poaching the king's venison. He denounced two accomplices, Gervais, who pleaded clergy, and Osbert who fled and was outlawed. While awaiting his return to court to be told his fine, Hugh escaped from gaol and disappeared, presumably back into the forest. Some time later, the foresters put to flight a gang of eight men with greyhounds trespassing with intent in the royal forest at Sapley. They caught one of them who gave his name as Roger de Fenton, but one of the forest officials later recognised him to be Hugh le Fekere. He was imprisoned in Huntingdon gaol again and, perhaps not surprisingly, again escaped. At the eyre the foresters reported that he had later drowned by accident, but more likely Hugh had returned to the forest to commit further offences under yet another name.[45]

Forest eyres were interrupted by the civil strife of the period 1258–65 so the Surrey forest eyre justices in 1269 found that some of those on their books were dead and many of the offenders had disappeared. The roll of the eyre records,

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43 Carpenter, *Minority*, pp. 60–63.

44 *Select Pleas of the Forest*, ed. G. J. Turner (Selden Society, 13, London, 1899).

45 Ibid., pp. 17–18.

> It is presented that Alan the son of Alan Basset, who is dead, Angod Baret, Alan the forester, William le Scot and others whose names are not known, entered the park (of Guildford) with bows and arrows to do evil to the venison of the lord king. And Bartholomew the parker came up and when he was seen by them he hailed them; and they immediately fled so that they could not be taken. They abandoned there five of their dogs which Bartholomew took and brought to the king who was then at Westminster. Alan the forester is in prison and Angod and William did not come nor were they attached because they were not found; therefore let them be exacted and if they do not come let them be outlawed. Alan made fine elsewhere.[46]

Outlawry and Forfeiture of Property

Bracton wrote in some detail about what the outlaw forfeits through outlawry. He is especially concerned with those who lost their right to property:

> He forfeits everything pertaining to right and possession, that is, right acquired and to be acquired and right vindicated and to be vindicated, and similarly possession in the form and manner of possession. He is bound to no one, nor anyone to him … For obligations and homages, fealties and oaths and all other things contracted by mutual agreement are dissolved. Thus outlaws forfeit their inheritances and tenements. For whom? For themselves and all their heirs, remote and near.[47]

The consequences foreseen by *Bracton* can be traced in some of the civil pleas recorded in eyre rolls. To return to Geoffrey of Rockingham, whose outlawry was proclaimed despite the king's pardon: Geoffrey managed to secure a new pardon, reversing his outlawry, in February 1255.[48] But the new pardon was conditional and did not reverse the confiscation of his lands. To achieve restoration, he needed annulment of his outlawry which, with dogged persistence, after the full hearing at the Rutland eyre of 1258, he at last achieved in November 1260.[49]

A writ of *mort d'ancestor* with which to contest rights of inheritance was brought before Hugh Bigod, justiciar, during his special eyre in Kent in 1258.[50] Philip and Aveline de Chenfield defended their right to hold five acres of land in Milsted against William son of Richard's claim that it was his inheritance from

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[46] Ibid., pp. 56–7.

[47] *Bracton*, vol. 2, p. 363.

[48] *CPR 1247–58*, p. 400.

[49] *CPR 1258–66*, p. 129. This Rutland eyre was one of the special eyres sent round by the reforming barons to hear complaints: *The 1258–9 Special Eyre of Surrey and Kent*, ed. A. Hershey (Surrey Record Society, 38, 2004), chapter III.

[50] *The 1258–9 Special Eyre*, no. 256, p. 141.

his uncle William. Philip and Aveline asserted to the court that William's father Richard 'committed a felony as a result of which he fled and was outlawed. As a result he is able to claim nothing by right in the land from his uncle William, except by reason of his father an outlaw.' The court confirmed that William could not inherit through his outlawed father and Philip and Aveline kept their acres.

Albreda, widow of William of Whatton, came before the justices of the Berkshire eyre in 1248 to claim from Ralph of Breedon her dower of a third of four virgates (probably 120 acres) of land. Ralph's attorney claimed that:

> she should not have dower thereon, because he says that William her former husband did a felony for which he was beheaded. Albreda comes and readily acknowledges that William her former husband was outlawed for a certain felony and later beheaded, but she says that he had given Ralph the land a long time before he committed the felony and she claims judgment on whether she should not have her dower from land which William her former husband had given before he did the felony.[51]

Judgement was adjourned to Shrewsbury. Albreda's plea began in January 1247 in Leicester because it was in Leicestershire that the land in question lay. Her case had been adjourned to Reading for a hearing in June 1248 and from there to hear judgment she would have had to travel to Shropshire for the eyre session in November 1248, in the hope of at last getting a judgment which might go one way or the other. The plea rolls which might have told more of Albreda's story have not survived.

Evidence of efforts to reclaim land lost through outlawry are relatively rare in the eyre rolls and the tribulations of Geoffrey of Rockingham and Albreda of Whatton demonstrate why this was so. The law was quite specific and without an unconditional pardon, as finally gained by Geoffrey of Rockingham, all effort and considerable expense would achieve nothing.

Abjurations

In his discussion of the law regarding felony, *Bracton* elaborated his statement on the outlaw's vulnerability:

> When an outlaw has been arrested it will not be lawful for anyone to slay him except in the course of the arrest itself if he attempts to resist, because after his arrest his life and death will be in the king's hand. Therefore when he has been arrested, though he has been properly outlawed and with cause, the king out of the fullness of his power may give him his life and members, that he may abjure the realm.[52]

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[51] *The Berkshire Eyre of 1248*, no. 533, p. 228.

[52] *Bracton,* vol. 2, p. 378.

Between the uncertainty of staying to stand trial, and flight followed by certain outlawry, there was a third option for felons. Hotly pursued by the hue and cry, the suspect might choose to seek sanctuary in the nearest church. *Bracton* described the process of how felons would then be ordered to abjure the realm:

> There are some who when they ought to be arrested, flee to a church or other sacred or privileged place and maintain themselves there. They then have no alternative but to come to the king's peace and stand trial if anyone wishes to proceed against them or to confess the crime because of which they remain there.

Sanctuary was allowed to last for 40 days by the Assize of Clarendon, during which local family and friends could provide food and sustenance, but *Bracton* thought that a felon who would not come out of sanctuary at once could strongly be assumed to be guilty and therefore should be starved out of sanctuary as quickly as possible.

> He will thus have his choice. If after confessing the crime he chooses to abjure the realm, he must select some port from which he can cross to another land, beyond the realm of England … A reasonable number of days' journeys to the port ought to be reckoned for him and he ought to be forbidden to leave the king's highway, or to make stay in any one place to two nights together, or to turn aside anywhere, or to stay far from the highway except because of great necessity or to seek shelter. Let him always keep on the direct road to the port so as to be there on the day assigned him, and, provided he is not hindered by a storm, cross as soon as he gets a ship and a wind. If he does anything to the contrary he will be in peril.[53]

Abjurations were made before the coroner and entered in the coroner's roll to be declared before the justices at the next eyre. At the Surrey eyre of 1235, there were only five abjurations to be declared but at the 1263 Surrey eyre 20 flights into sanctuary of 23 criminals and their subsequent abjurations were presented to the justices.[54] Nine abjurors had confessed to homicide and 14 to larceny and theft; two were women and three were priests. The record in the eyre roll of two abjurations from the hundred of Reigate illustrates very clearly the process of abjuration, its hazards and possible outcomes.

> John le Lung killed Simon le Kapier in Chipstead and immediately after put himself into the church of Chipstead and abjured the realm before the coroner. He had no chattels. And immediately after, he was arrested beyond the king's highway and taken to the prison of Guildford and there before Laurence de la

[53] Ibid., p. 382.

[54] *The 1263 Surrey Eyre,* pp. lxxx–lxxxi.

> Brok, justice assigned to gaol delivery, hanged … And William Serle, arrested for the murder because he put himself into the same church that John le Lung put himself, comes and denies the death and everything and for good and ill puts himself on the country. And twelve jurors and four neighbouring vills say on their oath that in no way is he guilty of the aforesaid murder so he is quit thereof.
>
> The same William put himself into the church of Chipstead with John le Lung, as is said, and confessed that he killed Joan his wife and abjured the realm before the coroner. He had no chattels. And the port of Shoreham was given to him by the coroner. And later he left the king's highway near Chalden and with hue and cry raised against him he was arrested and taken to Guildford and afterwards, at a goal delivery that Laurence de la Brok made there, Joan, William's wife, came before him. So William was sent back to gaol until the coming of the justices here … [55]

Wife-beating was not a felony, but beating a wife to death was homicide. William had believed that he had killed Joan but she recovered and loyally made her way to Guildford to present herself to the justice as proof of William's innocence. As William had already abjured for a crime it turned out he had not committed, his case had to be brought before the justices in eyre and referred by them to the king. Meanwhile William was sent back to gaol. He did not have to languish much longer, and perhaps Joan stayed near to provide him with comforts. The eyre at Guildford completed its business in the first few days of February 1263 and on 14 February 1263, a royal pardon was issued to William Serle.[56] Outlawry in the form of abjuration could possibly save an innocent man from hanging or perhaps give a felon a new start in a foreign country; many abjurors, however, must either have been caught and hanged en route to the port, like John le Lung, or have slipped away unnoticed to join outlaw groups in the forest.

The Effectiveness of Outlawry

On the evidence available, is it possible to assess the effectiveness of outlawry as an instrument of justice in the thirteenth century? First, it must be recognised that the evidence is partial and piecemeal. Although there are several hundred eyre rolls extant, the series is incomplete and comparatively few have been exhaustively examined. Up to the end of Henry III's reign, there are no records of county court proceedings or coroners' rolls preserved, nor do the documents prepared by the

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55 Ibid., nos. 581 and 582, pp. 279–80.

56 *CPR 1258–66,* p. 247.

jurors for presentation to the justices in eyre survive.[57] As the purpose of the records was primarily financial, the detail of evidence, jury decisions and judgements is often tantalisingly terse. To recall some figures already mentioned from the rolls: the names of 227 suspected criminals were brought before the justices of the Surrey eyre at Guildford in January/February 1263. One hundred and five suspects came in person, 122 were absent (of whom 32 had already been hanged at the county court), 116 were found guilty and outlawed *in absentia* and six were acquitted and allowed to return (but would lose their chattels). Of the total, just less than half (108) were named as suspects in the jurors' *privata*: 98 of these had already fled and 93 of them were found guilty and outlawed. In the 1235 Surrey eyre, of 101 named suspects, 84 were found guilty and outlawed, and in the 1255 Surrey eyre, of 73 named suspects, 50 were found guilty and outlawed. In 1263, there was an increase in the number of suspected criminals who were arrested and presented before the justices for felonies other than homicide, 78 compared with 18 in 1255 and none in 1235.[58] There is no parallel set of documents to show if there were county court outlawries not presented at the eyre.

The population of Surrey recorded in Domesday Book in 1086 was 4,314 – men only.[59] This would translate into a total for the county of little more than 20,000 people.[60] The population was unevenly distributed, there being very few settlements in the southern, heavily forested part of the county. By the mid-thirteenth century, the population had grown by between two- and three-fold with considerable growth of population in clearances in the forested south and in the more urban Southwark and Kingston.[61] Without figures for other counties, it is difficult to estimate whether crime control in Surrey was reasonably successful. More comparative studies with similar figures from eyres in other counties would be needed to be able to make a decisive judgment about the efficiency of the eyre and of outlawry in particular as instruments for keeping law and order. However, I will surmise that the level of pressure put on the vills and tithings of Surrey to keep watch, report the presence of strangers and raise the hue and cry to catch criminals was productive and that the extra demand made by the reforming barons in 1258–59, with their newly appointed sheriffs, to curb local crime and track down felons was responsible for the increase in presentments in 1263. Given that

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[57] These were the *veredicta* and the *privata* – the answers to the articles of the eyre and the names of suspected criminals indicted before the justices: *The 1263 Surrey Eyre*, pp. lxv–lxviii.

[58] *The 1263 Surrey Eyre*, pp. lxxiii–lxxxv.

[59] H.C. Darby and E.M.J. Campbell (eds), *The Domesday Geography of South-East England* (Cambridge, 1962), pp. 377–82.

[60] This is a rough estimate of population based on the household multiplier of 4.5 plus the population in unrecorded boroughs and partially recorded groups such as slaves and priests.

[61] Population numbers would be severely cut back, by between a third and a half, in 1348 and onwards by the Black Death and recurrent plagues.

long-term prison sentences were impracticable, while local communities remained stable and able to identify their wrongdoers, the penalty of exclusion through the process of outlawry was a reasonable solution. Musson's conclusion seems valid: 'From the government's point of view, up to the late thirteenth century, outlawry was a useful process whereby criminals were identified and information about them communicated. Its effectiveness derived from its use of the sanction of exclusion as a means of preventing crime.'[62] From the point of view of the inhabitants of Surrey vills, the removal of violent and dangerous neighbours by outlawry must have been a relief. However, this must be balanced against the desolation of families and friends of innocent runaways who were afraid of the retribution which might follow a court appearance.

But change came rapidly at the end of the thirteenth century. The pressure of population growth and the increased movement of people away from the places of their birth, coupled with recruitment for the military campaigns of Edward I which gave adventurous men the opportunity to break away from local ties of family and tithing, contributed to an increase in crime. Anxiety about crime levels became a concern of royal government as gangs of discharged soldiers roamed the countryside. The preamble of Edward I's Statute of Winchester indicates the perceived deteriorating state of local law and order in 1285.[63] More crime brought before the justices, together with increased litigation about property, created a greater burden of work for the justices in eyre. More articles were added to the eyre's workload by Edward I's Quo Warranto enquiry into the legitimacy of liberties and each eyre visitation took longer and longer to complete its work. New structures for criminal justice and civil litigation were developing which superseded the pattern of general eyres, while the pressure of war finance demanded more sophisticated ways of raising revenue than the collection of amercements and fines by the eyre could provide.[64] After more than a century as a significantly powerful tool of central government, the 1294 visitation, which was cut short by war, proved to be the last eyre of the traditional pattern. At the same time,

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[62] A. Musson, *Medieval Law in Context. The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester, 2001), p. 172. This concurs with Summerson's view that 'at least until the end of the thirteenth century, identification was only slightly less important than arrest and outlawry could be regarded as a genuine and adequate punishment for felony': 'Law Enforcement in Thirteenth Century England', 327.

[63] Edward I's Statute of Winchester of 1285 reacted to the crime wave: 'Forasmuch as from day to day, robberies, murders, burnings be more often committed than they have been heretofore, and felonies cannot be attainted by the oath of jurors which had rather suffer felonies done to strangers to pass unpunished than to indict the offenders of whom great part be people of the same country, … from henceforth our lord the king commands that every country be so well kept that immediately upon such robberies and felonies committed vigorous pursuit shall be made from town to town and country to country': Stubbs, *Charters*, pp. 463–9.

[64] *The 1263 Surrey Eyre*, pp. xx–xxi.

outlawry, exclusion from the community as a punishment for crime, 'had become less meaningful to the individual and more difficult to enforce'.[65] 'To be an outlaw in the fourteenth century and after was increasingly to be a criminal at large, not a malefactor hunted and harassed at every turn.'[66] The potency of outlawry as an instrument of justice, insofar as it ever had been effective, was by the end of the thirteenth century severely diminished.

[65] Musson, *Medieval Law in Context*, p. 172: 'By the fourteenth century, partly as a result of demographic changes, exclusion from the community had become less meaningful to the individual and more difficult to enforce. Consequently outlawry no longer possessed so much bite.'

[66] Summerson, 'Law Enforcement in the Thirteenth Century', 327.

Chapter 3
Justices and Injustice? England's Local Officials in the Later Middle Ages

Richard Gorski

A collection of papers on the subject of outlaws surely would be incomplete without some discussion of law enforcement and local administration, for the quintessential English outlaw, Robin Hood, was opposed by one of medieval England's quintessential anti-heroes, the sheriff of Nottingham. Drawing on research into the careers and preoccupations of an important group of local officials, the sheriffs appointed to English counties during the fourteenth century, the object of this paper is to offer some observations about the character of later medieval local government and justice, its quality and effectiveness (insofar as they can be measured), and the implications of both for the stability of the kingdom in this period.

Outlaws signified a failure of authority on two counts. Some, notably those of the literary tradition, were products of a judicial system that could not guarantee fair treatment, while those who remained at large cast doubt on the king's ability to keep the peace, which amplified the significance of their depredations. Both were measures of the king's good 'governaunce'. Because local government says so much about the sources, instruments and effectiveness of authority, it has figured prominently in the disputed transition from the 'law state' of the twelfth and thirteenth centuries to the 'war state' brought about in the fourteenth by the intensive mobilisation of resources, human, material and fiscal, for the military campaigns of the three Edwards. For some historians the harnessing of government to the war effort, the alleged neglect of royal justice and the increased delegation of authority to the nobility and gentry, albeit in the king's name, were signs of deterioration and decay. A particular manifestation of this was the abuse of livery and maintenance: affinities evolved from essentially military organisations into political tools for exercising magnate influence whilst offering protection for retainers who, emboldened by the power of their patrons, manipulated or simply disregarded the law.[1]

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[1] For a summary of the debate, see G.L. Harriss, 'Political Society and the Growth of Government in Late Medieval England', *Past and Present*, 138 (1993): 28–57. The negative impact of the war state has been discussed by, among others: R.W. Kaeuper, *War, Justice, and Public Order: England and France in the Later Middle Ages* (Oxford, 1988); P. Coss, 'Bastard Feudalism Revised', *Past and Present*, 125 (1989): 39–54; and J.R. Lander, *The*

Whilst acknowledging that lapses in crown authority encouraged alternative, and often violent, means of settling disputes – the physical self-help identified by a number of scholars[2] – and accepting that the predations of shire officials were at once a cause and a symptom of this problem, it will be argued that the partnership built up between the king and the counties was robust under all but the most extreme circumstances. Administrative malpractice was a tremendously varied genus of abuse, embracing petty bribery and extortion at one extreme and systematic intimidation and corruption at the other. Lawlessness undoubtedly resulted from the alienation of victims from due process and the escalation of existing feuds or the triggering of new ones. Corruption was the corollary of large-scale delegation. Yet the outlaw's flight to the forest, born of desperation and injustice, is the distorted reflection of a problem that was tackled aggressively during the fourteenth and fifteenth centuries.

Sheriffs illustrate the good and the bad of shire government as it stood in the teeth of the war state. The shrievalty – the office of the sheriff and the single or paired counties over which he presided as farmer (*firmarius*) or custodian (*custos*) – was but one, albeit important, element of an expanding semi-permanent bureaucracy in the shires. The system's organization, execution and personnel changed significantly under the weight of numerous social and political pressures – most recently, and intelligently, discussed by Dr Musson and Professor Ormrod.[3] The chief result, by the end of Richard II's reign, was a kingdom more intensively governed than it had been with a larger and more elaborate bureaucracy at its disposal. None of these changes occurred overnight, although the pace began to accelerate in the later thirteenth century under the vigilant gaze of Edward I, and perhaps enough occurred during his reign to support the idea of an Edwardian 'revolution' in government. In either case it is important to remember that the structures of government and justice continued to evolve after Edward's death in 1307 in response to internal and external influences and the interplay between them. The former were generated by government and the judiciary and might be loosely regarded as attempts to 'reform' the system from within. The latter, most

Limitations of English Monarchy in the Later Middle Ages (Toronto, 1989). The following works offer more positive interpretations: W.M. Ormrod, 'Edward III and the Recovery of Royal Authority in England, 1340–1360', *History*, 72 (1987): 4–19; J.B. Gillingham, 'Crisis or Continuity? The Structure of Royal Authority in England 1369–1422', in R. Schneider (ed.), *Das Spätmittelalteriche Königtum im Europäischen Vergleich* (Sigmaringen, 1987), pp. 59–80; and A. Musson and W.M. Ormrod, *The Evolution of English Justice: Law, Politics, and Society in the Fourteenth Century* (Basingstoke, 1999).

[2] Introductions to the subject can be found in J.G. Bellamy, *Crime and Public Order in England in the Later Middle Ages* (London, 1973); and B.A. Hanawalt, *Crime and Conflict in English Communities, 1300–1348* (Cambridge, MA, 1979). For the historical context of literary crime, see R.W. Kaeuper, 'An Historian's Reading of the *Tale of Gamelyn*', *Medium Aevum*, 52 (1983): 51–62.

[3] See Musson and Ormrod, *Evolution of English Justice*, pp. 75–160, for the points in this and the next paragraph, especially those regarding people's access to the law.

notably the prosecution of war and periodic breakdowns in society and/or royal authority, brought their own administrative challenges and responses.

Major developments from the 1270s included the systematic investigation of administrative abuses in the localities; the more frequent summoning of parliament as a forum for discussion and complaint (and as a means of securing approval for direct taxation); an expansion in the business dealt with by the royal courts (with important implications for the development of the legal profession); and a multiplication of the panels of itinerant justices in response to the more enthusiastic consumption of law as a means of redressing grievances. Through experiment, the void left by the suspension of the general eyre at the end of the thirteenth century was filled with more regular sessions of assize and gaol delivery, and with the proceedings held by justices of oyer and terminer and of the peace. The precise functions and jurisdictions of these courts and justices need not detain us here. It is enough to recognise that access to the law increased during the fourteenth century, which helped to create and sustain 'an age of complaint'.[4] It does not necessarily follow, however, that there was more to complain about.

More or less frequent engagement with the law was an important driver, but not the only one, of people's direct contact with the king's agents. Officials and their subordinates must have maintained a high profile in the shires, even if the energy with which they performed their duties was extremely variable. If the making of royal proclamations was in any way representative then it would seem that 'the tentacles of local government extended to the remotest corners of the kingdom'.[5] The only practical means of achieving such coverage, and of keeping up with the escalating burdens of shire government, was to mobilise the landowners. There was nothing new in the principle of delegating authority to the kingdom's wealthier and more respectable subjects, but the fourteenth-century expansion of government brought with it some important social consequences.[6] Local authority was diffused among the emergent gentry. Dubbed knights were at the forefront of this process, but before the end of the century most English counties boasted a squirearchy drawn from resident knights, esquires and those who would be soon reckoned as gentlemen. To these men, running alongside their private interests, fell an increasing amount of business in the spheres of law enforcement, local justice, financial management and social investigation. Indeed, the rising demand for manpower was probably one of the pressures in this period that transformed the gentry. Office-holding became both a mark of status and one of its proofs.

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[4] Ibid., p. 189.

[5] J.A. Doig, 'Political Propaganda and Royal Proclamations in Late Medieval England', *Historical Research*, 71 (1998): 253–80. The sheriff usually acted as the crown's mouthpiece.

[6] P. Coss, *The Origins of the English Gentry* (Cambridge, 2003), esp. pp. 165–201. Additional comment can be found in R. Gorski, *The Fourteenth-Century Sheriff: English Local Administration in the Late Middle Ages* (Woodbridge, 2003), pp. 65–101.

Lacking a salaried local bureaucracy, the crown had no choice but to harness the power of the local elites.

Something of the system's magnitude can be deduced from the approximate numbers of appointments to major offices made in the English counties during the century. There were 1,877 shrieval appointments in this period, and roughly 7,500 knights of the shire returned to parliament, 12,500 tax collectors unleashed on the populace, and 13,500 peace commissioners of various types. Appointments do not provide a direct measure of activity – they do not even necessarily prove that anything was done – but their quantity, incidence and distribution do offer at least an impression of need and a basis for estimating the resources required to govern the shires.

The disentangling of individual careers allows more subtle questions to be asked about resource management, the configuration of authority and the social (or political) contours of the office-holding group. Career reconstruction on this scale poses serious problems, but some progress has been made towards compiling a prosopography of shire officials.[7] In considering the manpower demands of an average county we find that to fill the major offices in the mid-fourteenth century between 20 and 30 individuals were required. By the last quarter of the century this had doubled and in some cases trebled. The enlarged tax-collecting and peacekeeping commissions of the 1370s and 1380s devoured much of this additional effort. More generally, and without great surprise, the process of career reconstruction reveals the extent of the crown's dependence on a comparatively small group of very active officials. Though many thousands of knights and esquires were drawn into the business of shire government, only a small minority can be said to have enjoyed, or suffered, prolonged or intensive service careers. Sheriffs provide a case in point. The 1,877 appointments noted above were distributed among 1,273 individuals, of whom only 421 (or just under a third) occupied the office more than once.[8] No comparable analysis is available for the other offices, but we can estimate that there were approximately 6,000 individual tax collectors and 3,000 keepers or justices of the peace. It is certain that each office was dominated by a nucleus of men that was much smaller and whose efforts, frequently over many years, were consumed by a steady flow of assignments from central government. The appointees were rarely specialists. Judicial commissions were bolstered with

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[7] Without by any means exhausting the potential sources, the data gathered by Gorski in preparing *The Fourteenth-Century Sheriff* exceeded 44,000 appointments to positions of shire government in the period *c*.1290–*c*.1410. This incorporated, and in some instances corrected, the existing Public Record Office *Lists and Indexes* for sheriffs and escheators. The work of the History of Parliament project is far more impressive still, though its coverage of the Commons begins only in 1386: J.S. Roskell, L. Clark and C. Rawcliffe (eds), *The History of Parliament: The House of Commons, 1386–1421* (4 vols, Stroud, 1993).

[8] Gorski, *Fourteenth-Century Sheriff*, pp. 48–9, 57 (277 sheriffs were elected twice, 96 three times, and the remainder served on four or more occasions).

provincial lawyers, or 'men of law', and perhaps in the past we have been guilty of underestimating this sub-group's contribution to shire government in general, and of failing fully to appreciate the likely overlap of expertise and interests between them and the gentry. Local justice aside, probably a few tasks were better suited to men with particular talents; but on the whole the work was done by amateurs whose knowledge and aptitude must have been very uneven.

For all but a relatively small minority, then, formal government service was an intermittent and infrequent fact of life. Some (just under 1,600 during the fourteenth century) thought it was worth avoiding altogether, and bought or begged exemptions. It competed for time with other pursuits, not least military service. Historians have not yet got adequately to grips with the impact that the numerous campaigns of the period had on England's shire bureaucracies.[9] All of this makes the emergence of a well-defined office-holding group both interesting and important. We cannot discount the possibility that persistent reappointment sometimes resulted from lazy administration, where previously enrolled commissions were recycled without much consideration. Yet, on the other hand, there is plenty of evidence that the chancery and exchequer responded to changing circumstances in the field, and there is no reason to doubt the existence of a selection process, however casual and poorly recorded it may have been.[10] Previous work has sought to understand the criteria by which these decisions were made, and so determine what distinguished, if anything, the office-holders from their peers. Experience ranks highly among them, though it is difficult to quantify. Wealth, status and patronage will be dealt with in due course.

The results of government growth are more transparent. Frequent and wide-ranging service in the *cursus honorum* of shire government was a striking development of the fourteenth century, and by its end the habit of holding office was sufficiently well established for Chaucer to build it into his description of the Franklin in the General Prologue to the *Canterbury Tales*.[11] It is unclear why he should have given this attribute to a 'worthy vavasour', a lesser landholder, rather than the Knight or the Squire who are both cast in a more conventionally chivalric mould. Whatever his reasons, however, Chaucer accurately captured the broadening base of the squirearchy as it stood by the beginning of the fifteenth century. The Franklin exemplifies a 'core' office-holder of the period. Erstwhile sheriffs, like the Franklin, by virtue of their experience, connections or resources, made up a significant proportion of this manpower nucleus, and this makes them

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[9] See ibid., pp. 126–57, for preliminary observations on this and other aspects of gentry career structure.

[10] For a similar view, see H.M. Jewell, *English Local Administration in the Middle Ages* (Newton Abbot, 1972), p. 201.

[11] The pathbreaking fourteenth-century county study was N. Saul, *Knights and Esquires: The Gloucestershire Gentry in the Fourteenth Century* (Oxford, 1981). Professor Saul has also written perceptively about the Franklin: N. Saul, 'The Social Status of Chaucer's Franklin: A Reconsideration', *Medium Aevum*, 52 (1983): 10–26.

a useful, if imperfect, guide to the calibre of fourteenth-century administrative personnel. It also makes the shrievalty indicative of the issues raised by the management of a valuable human resource.

Though fronted by the gentry, whose names appeared on the commissions issued by the king's ministers, we must not forget that the lower tiers of the administrative system provided opportunities for men of comparatively humble birth to serve as undersheriffs, stewards, clerks, bailiffs, sub-keepers, sub-collectors, constables and so forth. Very similar institutions and hierarchies were to be found in the private franchises and liberties where the king's writ did not run.[12] Though defying quantification and systematic analysis, this host of sub-gentry officials did much of the day-to-day work generated in the shires and provided invaluable local coverage and knowledge at the level of the hundred (or wapentake) and village.[13] In reflecting on sub-keepers of the peace, Dr Musson suggested that they 'represented the nexus at which royal and manorial justice met and intermeshed', and this is surely applicable to tasks of a similar standing in the administrative hierarchy other than keeping the peace.[14] If, in later medieval society, we accept the yeoman as having occupied that difficult place between the gentleman and the peasant, then a majority of jurors and petty officials probably belonged to the same yeomanry from which Robin Hood sprang.[15] This emphasises the fact that abuses of authority were not the exclusive preserve of the gentry. A statute of 1413 suggested that sheriffs' servants were more feared than their masters and there is plentiful evidence to support this apprehension.[16] The king's agents most likely to be on the spot in the hundred or manor had local knowledge and ties to the community that could be used for good or ill. On occasion acts of the latter type were openly collaborative, a good example being the commotion visited on Devon in the mid-fourteenth century by the sheriff William Auncel and his subordinates who were said, in a common phrase of the time, to have conducted themselves 'to the grave loss of the people'.[17] Another mid-century sheriff of Devon, Hervey Tyrel, probably fell victim to what must have been a common hazard of shire

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[12] See, for example, C.J. Neville, 'The Courts of the Prior and the Bishop of Durham in the Later Middle Ages', *History*, 85 (2000): 216–31. Professor Neville deals with attempts in the 1340s to tackle the movement of criminals back and forth between Durham and its adjacent counties.

[13] H.M. Cam, 'Shire Officials: Coroners, Constables and Bailiffs', in J.F. Willard, W.A. Morris and W.H. Dunham, Jr. (eds), *The English Government at Work, 1327–1336. Volume 3: Local Administration and Justice* (Cambridge, MA, 1950), pp. 143–83.

[14] A.J. Musson, 'Peacekeeping in Early-Fourteenth-Century Lancashire', *Northern History*, 34 (1998): 50.

[15] A.J. Pollard, *Imagining Robin Hood: The Late-Medieval Stories in Historical Context* (Abingdon, 2004), pp. 29–32 and references.

[16] Jewell, *English Local Administration*, p. 199.

[17] *Proceedings Before the Justices of the Peace in the Fourteenth and Fifteenth Centuries*, ed. B.H. Putnam (London, 1938), pp. 73–8.

administration. In proceedings initiated by the bishop of Exeter, Tyrel and four of his 'ministers' were accused of using a forged seal to issue malicious writs in the county. Since later proceedings make no mention of Tyrel, and he was expressly ordered to remain in office, we must conclude that the sheriff was blameless. Inattentiveness and the lax management of his men were Tyrel's probable sins.[18]

So ingrained in the popular imagination is Robin Hood that he can sometimes overshadow other expressions of discontent with medieval justice and the fabric of society. Scholarly interest in these 'outlaw ballads', stretching back over half a century, has helped to locate Robin and the sheriff in a more substantial, and very lively, tradition of protest and ribaldry whose written remains have been interpreted in a number of quite distinctive ways. This is not the appropriate place for an extended review of the literary scholarship, but a flavour of it can be obtained from the wildly differing views that have emerged of the pivotal figure of Robin, whether as a hero of the downtrodden peasantry, a comparatively harmless rebel, or as the whimsical denizen of an imagined (and largely mythical) greenwood past.[19] For present purposes we may focus more narrowly on the impression of the king's government left by these ballads and kindred types of satirical literature. This is predictably poor; indeed it is *necessarily* poor, for outlaws like Robin Hood were meaningless without an explanation for their often violent and vengeful actions. It is avowed in the ballads that the moral compass of common good and justice pointed directly away from the ill effects of administrative growth, notable among them being the arbitrary acts and corrupt habits of royal officials. It is therefore unsurprising to find a strong critical current in the *Outlaw's Song of Trailbaston* (1305–07), the *Tale of Gamelyn* (*c*.1350?), and *A Gest of Robyn Hode* (*c*.1400?).[20] Nor, for the same reasons, is it unreasonable to find a particular dislike of sheriffs. Although no longer the powerful despots of old, by the beginning of the fourteenth century sheriffs and their staff nonetheless dealt with a significant volume of administrative business. The sheriff's role in dispensing justice declined steadily over a long period, business that fell in the main to specialist justices, but the office retained an important role in supporting the local judiciary. Besides acting as one of the crown's accountants, a sheriff would be expected to serve writs, assist in the apprehension and custody of suspects, assemble juries, and help in preserving public order.[21] In many respects sheriffs acted as conduits between the crown and the localities. Of course sheriffs were not the only offenders, and they

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[18] *CPR*, *1345–48*, pp. 173, 189; *CPR*, *1348–50*, p. 14; *CCR*, *1346–49*, p. 96.

[19] Pollard, *Imagining Robin Hood*, esp. pp. 29–33, 211–22.

[20] For the text and provenance of the *Outlaw's Song of Trailbaston*, see *Thomas Wright's Political Songs of England From the Reign of John to that of Edward II*, intr. P. Coss (Cambridge, 1996). *The Tale of Gamelyn* is presented and discussed by S. Knight and T.H. Ohlgren, *Robin Hood and Other Outlaw Tales* (Kalamazoo, 1997). For *A Gest of Robyn Hode* see *Rymes of Robin Hood: An Introduction to the English Outlaw*, ed. R.B. Dobson and J. Taylor (3rd edn, Stroud, 1997).

[21] Gorski, *Fourteenth-Century Sheriff*, pp. 1–4 and references.

were not necessarily the worst; but, as we shall see, their ubiquitous involvement in local government gave them many opportunities for abusive or over-zealous behaviour.

In their explicit criticism of the shrievalty, then, the handful of extant outlaw tales contributed to a substantial literature of complaint against the misuse of authority and the perversion of the king's justice. As Professor Holt noted some years ago in his important contribution to the Robin Hood literature, there is no need to account historically for the sheriff of Nottingham's dogged pursuit of a forest outlaw like Robin because he and his office represented shire government more generally.[22] A sheriff was singled out because he still sat at the apex of the local administrative system and consequently offered an obvious and conventional target for ridicule. One of the most striking examples of this can be found in *The Vision of Piers Plowman* in which William Langland, using the language of lordship, dripping with allegory, accounted a sheriff among the retinue brought together to witness the marriage of Lord Fals to the Lady Meed. In proposing guilt by association, Langland put the sheriff in the unsavoury company of other stock abusers of secular and ecclesiastical authority, including assize jurors, summoners and bailiffs.[23]

Satirical and polemical literature, though it preserves traces of problems that we know to have been endemic, is at best an uncertain guide to opinions of local justice and government. Even accepting that some pieces betray a sound understanding of legal matters, it was in their very nature to oversimplify and, in some cases, to ossify features of a world that was changing. A fitting example is the portrayal of the sheriff of Nottingham in the *Gest of Robyn Hode*. The *Gest* presents a rather archaic view of the sheriff as a detached royal placeman, of the court rather than the county, with resources at his disposal that would have been beyond the reach of most fourteenth- and fifteenth-century sheriffs. In one sense this is unimportant, for, as Professor Pollard noted, the sheriff 'stands for the generically corrupt and repressive agent of the crown, who can be either official, local magnate or court favourite'.[24] The sheriff's portrayal, however, touches upon some of the conditions under which corruption was thought to flourish. Observers commonly associated the worst symptoms of maladministration with officials who were socially unsuitable or who served for long periods at the king's pleasure. The baronial council of 1258 recognised these concerns, and they remained on the reform agenda throughout the fourteenth century.[25] A petition to parliament in 1346, for example, demanded that sheriffs should not be appointed for life and

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[22] See J.C. Holt, *Robin Hood* (2nd edn, London, 1989), p. 73.

[23] Passus 2, ll. 53ff: W. Langland, *The Vision of Piers Plowman: A Critical Edition of the B-Text*, ed. A.V.C. Schmidt (London, 1978), pp. 18–19.

[24] Pollard, *Imagining Robin Hood*, p. 107.

[25] J.R. Maddicott, 'Edward I and the Lessons of Baronial Reform: Local Government, 1258–80', in P.R. Coss and S.D. Lloyd (eds), *Thirteenth-Century England I. Proceedings of the Newcastle upon Tyne Conference 1985* (Woodbridge, 1986), p. 27.

that they ought to be chosen from among the most substantial men of the shires.[26] Limiting a sheriff's tenure prevented him from being above the law, for soon he would be cast back into the fray of county society and therefore made more vulnerable to prosecution or rough justice. Property qualifications, though very vague at first, were meant to keep out landless speculators and enable the levying of debts or damages from the assets of transgressors and incompetents. Calls for local sheriffs, that is for nominees to hold land in their bailiwicks, further extended this principle while betraying at the same time a distrust of strangers without ties to the community.

Persistent complaint eventually convinced the crown to comply with each of these demands. Taking the shrievalty together with the other branches of shire administration, the statutes of the thirteenth and fourteenth centuries gave form and substance to the idea of 'self-government at the king's command', creating in the process a large and active magistracy.[27] Whilst satisfying some of the gentry's aspirations, the crown benefited from being seen to respond to the demands and grievances articulated in petitions.

The appointment of 'sufficient' sheriffs was to everyone's advantage and quickly became the norm. Few 'foreign' or curial sheriffs were appointed after 1300. By Edward II's reign the definition of suitability was established adequately enough to provoke opposition when violated. Challenges to shrieval appointments on this ground were rare – only a handful are known – but they say a great deal about the concerns and values of county society. In 1318, William de Neville was deemed unfit to serve as sheriff of Warwickshire-Leicestershire because he held his property in right of his wife.[28] Similar concerns arose in the mid-1330s about the appointments of John de Oxenford as sheriff of Derbyshire-Nottinghamshire and Hildebrand de London as sheriff of Devon.[29] Each, because of his scant resources, was a stranger to his bailiwick which excited something of the fear and suspicion instilled in the sheriff of Nottingham. By the end of the century, as exemplified during Richard II's brief 'tyranny', expectations were such that it was unacceptable to disregard custom by imposing poorly qualified or politically dependent sheriffs.[30] On the whole, however, we can identify the sheriffs of the fourteenth and fifteenth centuries as men of substance in their respective shires; and almost invariably those who had the honour of serving in more than one bailiwick

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[26] *Rotuli Parliamentorum*, ed. J. Strachey et al. (7 vols, London, 1767–1832), vol. 2, p. 161.

[27] A.B. White, *Self-Government at the King's Command* (Minneapolis, 1932).

[28] TNA, SC 8/58, 2881; Saul, *Knights and Esquires*, p. 114 n.

[29] For Oxenford, see J.R. Maddicott, 'The Birth and Setting of the Ballads of Robin Hood', *EHR*, 93 (1978): 276–99. London was an experienced administrator in Wiltshire but lacked connections with Devon: *CFR*, *1327–37*, pp. 463, 467–8. Doubts were raised also about the suitability of Hervey Tyrel as sheriff of Devon, which might have contributed to his later problems in office: *CPR*, *1340–43*, p. 307.

[30] Gorski, *Fourteenth-Century Sheriff*, pp. 29–30.

were qualified in both.[31] In 1371 the long-standing requirement for sheriffs to be 'gentlemen sufficient in lands' was fixed more precisely at an income from land of £20 per year.[32] Escheators, officials who guarded the crown's rights, especially in the conveyance of property, were already subject to this qualification.[33] Gentry members of the peace commission were later put on the same footing.[34] Property and public authority were forged together into an ever closer relationship.

Infrequent opposition to the crown's appointments reflected in part the shrievalty's dwindling significance, for it would be wrong to assume that under normal circumstances the choosing of sheriffs was politically sensitive. Broad acceptance of the government's decisions was also a product of communication, however. We sometimes draw too sharp a distinction between the centre and the localities, forgetting that they were in constant touch with each other. Shire government, of course, was central to this relationship both directly and indirectly. Central court justices at work in the provinces; members of the royal household; knights of the shire attending parliament; outgoing sheriffs tidying up their affairs at the exchequer – each conceivably played a role in identifying worthy (and unworthy) candidates. To these we must add the intelligence and advice that flowed back and forth through other channels both formal and informal. Though ad hoc and driven by many different concerns, this information stream occasionally raised concerns about troublemakers and, very infrequently, praised those who were worthy of it.[35] Unfortunately, these aspects of selection and vetting have left a negligible footprint in the sources.

Promises to replace sheriffs more frequently, usually after a year in office, were not honoured until the end of Edward III's reign.[36] This was due to the perceived disadvantages of such proposals. The potential disruption to shire business and the anticipated difficulty of finding replacements were strong arguments against change. For much of the fourteenth century in shrievalties controlled by the crown, to be distinguished from the handful that were held in fee, appointments lasted for two years on average and conformed to no obvious or predictable pattern. There were extreme cases at both ends of the spectrum. Cancelled and abortive appointments lasting a few days or weeks suggest either hesitancy in the choice of sheriffs or a refusal to serve, for the financial liabilities of the shrievalty dented its appeal. At the other extreme there were real survivors like Sir Simon Basset, sheriff of Gloucestershire for a decade after 1341, and Sir John de Scures, whose

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31 Ibid., pp. 78–84.

32 *Rotuli Parliamentorum*, vol. 2, p. 308; Saul, *Knights and Esquires*, p. 110.

33 *Rotuli Parliamentorum*, vol. 2, p. 296.

34 See A.L. Brown, *The Governance of Late Medieval England 1272–1461* (London, 1989), pp. 126–7.

35 TNA, SC 1/35, 172, 174, 181; SC 1/36, 180. These letters, most dating from 1319, speak well of serving officials and are therefore unusual.

36 Gorski, *Fourteenth-Century Sheriff*, pp. 39–50, for this and the following paragraph.

twenty-year tenure in Hampshire spanned the most turbulent period of Edward II's reign and the ill-fated regime of Mortimer. If a sheriff was competent in his duties, and not especially irksome to the inhabitants of his bailiwick, then why go to the trouble of replacing him?

People nonetheless persisted in connecting long tenure with abuse, and, very reasonably, life grants were singled out for particular criticism. An appeal for the annual replacement of sheriffs in 1340 contended that those who served during royal pleasure, with no fixed term, committed oppressions without fear of justice.[37] When the earl of Arundel died in 1376 and his life shrievalty of Shropshire reverted back to the crown, the people of the county complained of the great 'mischief' that the arrangement had caused.[38] Edward III agreed on several occasions to replace sheriffs more frequently, but each of these concessions proved to be temporary and the ministers responsible for making appointments soon lapsed back into their old habits.[39] Very abruptly, however, in 1371 the principle of annual rotation was reconfirmed and adhered to.[40] Thereafter, with only odd exceptions, each October or November brought a complete changeover of sheriffs in the crown-controlled shrievalties.

Practically, in the context of improving the standards of local administration, it is hard to imagine how these efforts to rein in the sheriffs achieved very much. Rather than seeking out and punishing the guilty, they were designed to promote accountability and, in a very broad sense, to limit the sheriff's capacity for mischief. They were confidence-building measures. Perhaps the enforcement of annual replacement after 1371 discouraged systematic corruption, but it probably did nothing more than redistribute venality around the system. A more pressing problem was how to deal with the faster turnover of personnel. The trick of repeatedly appointing the same men, thereby breaching the spirit of the law, was curbed by a statute of 1377 which barred sheriffs from reselection within three years of leaving office.[41] Across the kingdom differing strategies were found to obtain and manage the requisite manpower, but this did not significantly alter the composition of the office-holding group. Each county had, and retained, a distinctive character that reflected its particular needs and its available resources. Where knightly families dominated the organs of shire government – most notably the counties of East Anglia, the West Country and northern England – this remained

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[37] *Statutes of the Realm (1101–1713),* ed. A. Luders et al. (11 vols, Record Commission, London, 1808–28), vol. 1, p. 283.

[38] TNA, SC 8/139, 6912. The original grant to Arundel was made in March 1345. Soon after, the shrievalty of Staffordshire – usually paired with Shropshire as a single unit – was given to Henry, earl of Derby.

[39] *Rotuli Parliamentorum*, vol. 2, pp. 142 (1343), 161 (1346), 168 (1347), 229 (1350), 261 (1354). For the relevant statutes see *Stat. Realm*, vol. 1, pp. 283, 346, 389.

[40] Saul, *Knights and Esquires*, p. 110; Gorski, *Fourteenth-Century Sheriff*, pp. 40–42.

[41] *Stat. Realm*, vol. 2, p. 4. This was also intended to more fairly spread the burdens of office.

so, though there is evidence elsewhere that the explosion of commissions in the 1380s and 1390s widened participation or simply exaggerated existing tendencies towards the appointment of esquires and gentlemen.[42] Thus, the blanket concept of 'gentry government', though very convenient, conceals some interesting contrasts in the relationship between wealth, status, authority and power. Nevertheless, whatever the status of the recipient, formalising the ties between wealth and office probably enhanced the social cachet of shire administration without doing very much to assure its quality. Indeed, the recruitment of sheriffs to preside over their own communities, where presumably their own interests were concentrated, was likely to exacerbate certain types of abuse as the foxes were set to watch over the chickens. Manipulating the law with regard to property was an obvious example. This was what Sir William Haulay had in mind in 1369 when he allegedly used his authority as sheriff of Lincolnshire to disinherit a neighbour. Aided and abetted by members of his family, Haulay engineered a legal action so hopelessly biased against the victim that he would be forced to concede defeat. When officials tried to investigate the allegation, the Haulays turned up en masse to intimidate the jurors.[43] Haulay's plot exemplifies abuses that were straightforwardly self-interested, in the style of the small-time Mafioso. He had a kindred spirit in Sir Thomas de Bekeryng, a prominent sheriff of Derbyshire-Nottinghamshire during the mid-1340s. Bekeryng's misrule really was a family affair. When complaints about his illicit activities came to light – including unlawful imprisonment, the false return of writs, extortion, and a purveyance racket – the royal justices arrested Sir Thomas, his wife, his clerk and even his chaplain. There is also a suggestion that Bekeryng brought to his public career habits that were already apparent in his private affairs, and that had been learnt perhaps from his father's robust attitude to estate management. The intercession of the earl of Lancaster helped to extricate Bekeryng from this mess, but he nonetheless was forced to pay substantial fines for his oppressions and suffered the indignity of having his lands confiscated for a time.[44]

It is very unsatisfactory to dismiss the activities of Haulay, Bekeryng and others like them as the inevitable consequences of delegation. Though true in essence, this blunt conclusion hardly encourages us to explore the incidence and extent of corruption, its relationship to other forms of crime and disorder, and the impact of the crown's response to it. Each question defies a definitive answer, for the various means by which complaints were brought and tested have bequeathed evidence that is incomplete, uneven, anecdotal and one-sided. Each individual case raises the problem of typicality. Our overall view of the subject, like that of medieval crime more generally, is bound to be impressionistic because venality among shire officials cannot be measured. Only rarely can its prevalence be guessed at, and even then the results tend to be unconvincing.[45] Reading backwards into

[42] Discussed in more detail by Gorski, *Fourteenth-Century Sheriff*, pp. 44–57.

[43] *CPR*, *1367–70*, pp. 261–2.

[44] *CPR*, *1345–48*, pp. 241, 306, 535–6; *CFR*, *1319–27*, pp. 386, 392.

[45] Gorski, *Fourteenth-Century Sheriff*, pp. 119–25.

the provisions of deterrent legislation gives an indication of the problems, but says little about their extent. Accepting these limitations, what follows are some observations on the symptoms of administrative corruption and the measures put in place to combat it.

We might reasonably assume that petty offences were the most common. Grave offences were committed of course, distinguishable by their violence or political overtones, but opportunistic theft and extortion were the staples of maladministration. It is presumed that in lieu of a wage – and perhaps to offset the risks of office – sheriffs found their own rewards.[46] In his guise as a debt collector the sheriff could levy sums more than once or raise more money than was owed. Sheriffs, like other officials, were in a position to demand illicit fees before performing their duties. It is unclear if these bribes and backhanders were ever seen as legitimate. Legal texts of the time suggest not.[47] Hardship ensued when sheriffs farmed out the lands in their custody at excessive rates, encouraging – in fact obliging – those responsible to squeeze the inhabitants to meet their commitments. The judicial system, both criminal and private, provided many opportunities for sheriffs to show good or ill favour. The misuse of the twice-yearly tourn during which he or his undersheriff presided over the hundreds within his jurisdiction; the neglect or fabrication of writs; the extraction of false accusations; the wilful release or false imprisonment of suspects; the abuse of bail; the over-zealous, or downright unlawful, distraint of goods; the contrivement of outlawry; and the packing or intimidation of juries – these were some of the ways in which a sheriff might manipulate local justice.

By now it should be clear that sheriffs had many opportunities to profit from their office. The temptation to do so must have been very great indeed. Moreover, because of their specific duties and interactions with other officials sheriffs found themselves in an ideal position to favour their friends and balk their enemies, which undoubtedly contributed to the 'gentlemen's wars' of the fourteenth and fifteenth centuries. Sadly, none of this solves the big question of how widespread corruption was. Rather it suggests that at the bottom end of the scale, where abuse shaded into neglect or incompetence, a great deal went on that was not reported. What seems to have distinguished the worst cases, making them so unbearable to their victims, was the purposeful orchestration of these minor transgressions, for it took little imagination to fashion them into a very formidable and unpleasant tool of exploitation and intimidation. Intervention was to be expected in these circumstances. Sheriffs courted retaliation by attacking those with the knowledge and resources to seek legal redress, by flagrantly compromising royal interests through their self-serving administration, and by stirring up unrest in the

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[46] W.A. Morris, 'The Sheriff', in W.A. Morris and J.R. Strayer (eds), *The English Government at Work, 1327–1336, Volume 2*: *Fiscal Administration* (Cambridge, MA, 1947), p. 78.

[47] *The Mirror of Justices*, ed. W.J. Whittaker (Selden Society, 7, London, 1895), p. 117.

countryside and thereby jeopardising the very peace that they were supposed to preserve. The charges brought against William Auncel and his men in Devon will serve as an example. They were said to have taken fines without cause, assembled false juries, interfered with judicial sessions, abetted criminals, and allowed vagabonds to roam freely.[48] Turning a blind eye to crime was in its own right a symptom of maladministration. On a more personal note, Professor Saul has drawn our attention to the sufferings in Gloucestershire of John de Berkeley of Dursley at the hands of an administration that was riddled with the retainers of Thomas de Berkeley of Berkeley and consequently biased against him.[49]

Berkeley's miserable experience leads us to consider briefly the relationship between authority and lordship, since the marriage between the two is widely regarded as the most harmful result of large-scale delegation. In essence this 'quarrelsome world of bastard feudalism' is straightforward.[50] Some of the costs incurred by magnates in offering patronage – whether to estate officials, indentured retainers or well-wishers – were recouped by their clients' ability to influence local government and justice in ways that were beneficial to them. Naturally, the resulting networks or 'affinities' fulfilled a number of purposes. They peopled the lord's household, formed the nucleus of his military retinue and provided a means by which to project his dignity; but to these functions was added the delivery of political leverage whenever and wherever it was needed. By helping to delineate blocks of aristocratic power, including that of the king as the greatest nobleman, sheriffs and justices who were in receipt of fees and robes had the capacity to drive a rancorous wedge into county society. Delegation, in Professor Carpenter's opinion, gave magnates 'the opportunity to pervert the whole system'.[51]

In assessing the impact of patronage on shire government, we have some sympathy with the pessimists who regard it as having exacerbated the already conflicting interests of the individual, the family, the county (the *communitas patriae*) and the king. A strong prima facie case can be made for this, particularly in the fifteenth century. Noblemen must frequently have been involved in the appointment and dismissal of shire officials, even if evidence is hard to come by. A statute of 1316 prohibited stewards from holding the shrievalty and so removed the magnates' most conspicuous representatives.[52] This did not prevent lords from expanding their influence over the magistracy with 'feetz Robes et pensions', however.[53] Perceptions of this problem worsened during the fourteenth century,

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[48] *Proceedings Before the Justices of the Peace*, pp. 73–8.

[49] TNA, SC 8/157, 7832 (*c*.1330–31). The petition was published in Saul, *Knights and Esquires*, p. 266, and discussed by him (pp. 152–4).

[50] J.G. Bellamy, *Bastard Feudalism and the Law* (London, 1989), p. 17.

[51] D.A. Carpenter, 'Debate: Bastard Feudalism Revised', *Past and Present*, 131 (1991): 180–85.

[52] *Stat. Realm*, vol. 1, p. 174.

[53] W.M. Ormrod, 'Agenda for Legislation, 1322–c.1340', *EHR*, 105 (1990): 6. The common petition of 1324 referred to by Professor Ormrod is TNA, SC 8/108, 5398.

and reached a nadir during the fifteenth.[54] The unsettling effects on shire affairs of immoderate largesse were a subject of frequent complaint, as in the case of Sir Henry Popham, sheriff of Hampshire in 1388, whose 'affinite et alliance' and distribution of 'robes et liveres' irritated some of the county's residents.[55] If a lord willed it, the means existed to populate and politicise shire government with his clients. At the same time, a lord's protection loosened still further whatever moral or institutional constraints governed the client's conduct whilst in office. In a most despondent interpretation, these were among the 'principal vices' which brought 'the medieval order to ruin'.[56]

It is impossible here to review in detail what has developed into a labyrinthine, and at times combustible, debate about the character and consequences of bastard feudalism. Research into a number of county communities has revealed contrasting experiences across the kingdom and across the period, and these findings in their turn have steered the broader debate in new and interesting directions. Nobody, yet, has denied outright the malevolent potential of lordship and patronage. We have been invited, however, to consider more carefully the practical limitations of affinities and the objectives with which they were formed. If, on the one hand, aristocratic influence can be measured by counting the offices held by retainers (here skirting the difficulties of distinguishing stronger and weaker ties between the nobility and gentry), then clearly it could be pervasive, whether under the lords of Berkeley in Gloucestershire, the Fitzalan earls in Sussex, the Courtenay earls in Devon, or the dukes of Lancaster in some of the midland and northern counties.[57] Though useful, these head counts of retainers rarely reveal the lord's intent. This is something that historians have read into the composition of affinities. Even a clearly predominant lord did not necessarily seek to control his 'country' in ways that were active or quarrelsome.[58] Not all shires, on the other hand, came under the dominance of a single magnate. Indeed, there were forces and institutions at work in the fourteenth century that promoted the political independence of the gentry.[59] With increasing momentum after the accession of Edward III, the choices implicit

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[54] The widely reported problems of the fifteenth century probably reflect the larger body of surviving correspondence which historians have plundered very thoroughly.

[55] *The House of Commons, 1386–1421*, vol. 4, pp. 113–15.

[56] J.E.A. Jolliffe, *The Constitutional History of Medieval England From the English Settlement to 1485* (2nd edn, London, 1947), pp. 410–11.

[57] Saul, *Knights and Esquires,* pp. 152–3; N. Saul, *Scenes from Provincial Life: Knightly Families in Sussex 1280–1400* (Oxford, 1986), pp. 30–34; M. Cherry, 'The Courtenay Earls of Devon: The Formation and Disintegration of a Late Medieval Aristocratic Affinity', *Southern History*, 1 (1979): 71, 75–6; S. Walker, *The Lancastrian Affinity 1361–1399* (Oxford, 1990), pp. 235–46.

[58] Gorski, *Fourteenth-Century Sheriff*, pp. 22–31.

[59] J.R. Maddicott, 'The County Community and the Making of Public Opinion in Fourteenth-Century England', *Transactions of the Royal Historical Society*, 5th series, 28 (1978): 27–43. Some years later Professor Richmond shrewdly surveyed the land as

in building effective affinities – the selection of knights and esquires who could provide all-round service – probably helped to create the confident, narrow and 'predatory' elites of 'greater gentry' encountered in the fifteenth century.[60] Efforts to pin down the crown to the appointment of resident shire officials might be seen in this context, perhaps. At times, then, the gentry 'were able to create their own order or chaos'.[61] How far we should emphasise these horizontal fault-lines in landed society is a different and more difficult question.

To summarise the situation very crudely, the range and intensity of aristocratic patronage, along with its social and political results, were extremely variable. Even within the compass of a single affinity, lordship had the almost simultaneous capacity to promote stability or generate conflict. Perhaps in the past we have been too eager to dwell on its negative qualities. More predictable were the conditions that exacerbated conflict and led noblemen, without much pretence, to seek advantage by installing their clients as sheriffs and justices. One was physical isolation from the centres of royal authority, although this has been somewhat exaggerated.[62] Far more important was the absence or collapse of that authority. Weak or fragmented leadership at the heart of government, and the factionalism that usually came with it, triggered purges of local government (and especially the shrievalties) on several occasions during the fourteenth century. It was during such crises – the confrontation between Edward II and Lancaster, the years of flux between Edward II's deposition and the assertion of Edward III's personal rule, the tyranny and deposition of Richard II – that the normal ebb and flow of government appointments was most disrupted. Precisely these times, of course, offer the most abundant evidence for political affiliation and allegiance.

In the final section of this paper we will consider the direct measures that were taken to tackle corruption in the shires. This takes us back to the themes of strong kingship and purposeful governance, for having yoked his authority to the local elites it remained for the king to keep the abuses of his agents within reasonable bounds. Anything more than this was unrealistic. The crown had at its disposal three ways of maintaining adequate standards of administration. The prudent selection of commissioners was the first, but this clearly had its limits. Second, once officials were appointed there were structures in place to regulate their behaviour. These included the solemn oaths sworn to seal the transaction

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it lay after the first wave of published fourteenth- and fifteenth-century county studies: C. Richmond, 'An English Mafia?', *Nottingham Medieval Studies*, 36 (1992): 235–43.

[60] For comment see Richmond, 'An English Mafia?', 235–43. 'Greater Gentry' was used by Dr Payling in his work on Nottinghamshire: S. Payling, *Political Society in Lancastrian England: The Greater Gentry of Nottinghamshire* (Oxford, 1991).

[61] Carpenter, 'Debate: Bastard Feudalism Revised', 184–5.

[62] For introductions to the medieval north and its governance, see H.M. Jewell, *The North–South Divide: The Origins of Northern Consciousness in England* (Manchester, 1994); and C.J. Neville, *Violence, Custom and Law: The Anglo-Scottish Border Lands in the Later Middle Ages* (Edinburgh, 1998).

of authority. Incoming sheriffs, for example, promised to safeguard the king's interests, levy debts impartially, deal sufficiently with writs, appoint bailiffs for whom they would be responsible, and treat the local people without malice or favour. Bailiffs and other *ministri* in their turn swore oaths to the sheriff. When they came to grief in carrying out their duties, as often happened, the very fact of being 'known and sworn' magnified the sense of outrage.[63] Contemporaries were wise to doubt the value of these oaths but they at least spelt out the standards of conduct expected of royal officials. More functional were the checks and balances set in place to regulate shire government. These came in the form of central audit – especially of revenues collected for the crown, writs executed on its behalf and expenses claimed against its accounts – and the local surveillance of one agent by another. The first of the two was a major concern for sheriffs who were required to appear at the exchequer twice a year to render their accounts. Local regulation, though difficult to describe in brief here, also involved the sheriff in his capacity as gamekeeper and potential poacher. We find, for instance, that one of the coroner's roles was to watch over the sheriff, although in practice most of their work required close collaboration.

Although they overlap with the third method of tackling abuse, the periodic visitations of royal justices served as a deterrent to corruption as well as a reactive tool for inquiry and punishment. In the later thirteenth century the general eyre was empowered to hear complaints against royal officials. Over time, as the eyre fell into disuse, this power was assumed by justices of oyer and terminer (including the famous trailbaston commissioners) and was later extended to justices of the peace. With the stiffening up of the peace commission during the mid-fourteenth century, communities were presented with a more regular means of making complaints about the quality of local government and especially about the abuses of bailiffs and other lesser officials.[64] Professor Bellamy was highly sceptical about the value of these self-regulatory and punitive mechanisms. He suggested that they were undermined by conspiracies of silence among the office holders. One official was unlikely to indict another.[65] In a world characterised by bastard feudal power-mongering we can imagine how affinities might promote forms of solidarity that were detrimental to royal justice. But the likely impact

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[63] For illustrations of an all-too-common problem, see *CPR*, *1327–30*, p. 213; *CPR, 1345–48*, pp. 173, 183–4.

[64] Examples can be found in B.H. Putnam, 'Shire Officials: Keepers of the Peace and Justices of the Peace', in *The English Government at Work, 1327–1336*, pp. 186–217. Significant revisions of Professor Putnam's work on local law enforcement and peacekeeping, and a level-headed view of fourteenth-century crime in general, can be found in A. Musson, *Public Order and Law Enforcement: The Local Administration of Criminal Justice, 1294–1350* (Woodbridge, 1996), pp. 11–82, 225–78. It is unclear if during the fourteenth century the abuses of sheriffs and other officials were supposed to be heard by justices of the peace, but evidently on occasion they were.

[65] Bellamy, *Bastard Feudalism and the Law*, p. 31.

of localism and cronyism can be accepted without subscribing fully to Bellamy's interpretation. Fear also was a repressive influence and there is good sense in Dr Jewell's warning that 'some officials so terrorised their areas that no voice dared be raised against them'.[66]

When intimidation failed, more forceful means could be used to disrupt the business of the shire. These staggeringly direct methods of bypassing the justice system have featured prominently in accounts of crime and disorder in this period. It is true that assaults on local officials were commonplace. Most exposed were the bailiffs and others who shouldered the bulk of the workload, but attacks on their superiors occurred often enough to represent a considerable, and neglected, risk of office-holding. Ambush on the road was a common tactic. In circumstances reminiscent of *Gamelyn*, court sessions sometimes provided the occasion for more open acts of defiance against sheriffs and justices.[67] Scores built up in the king's service, legally or illegally, were settled by whatever means seemed most appropriate. Sir John de Loudham, Queen Isabella's nominee as sheriff of Norfolk-Suffolk, epitomises this fusion of law and violence. During his term as sheriff, in 1330, Loudham allegedly seized a manor lying within his jurisdiction, took hostage its owner, and extorted £40 before allowing his release. Having stepped down from the shrievalty Loudham later complained that he and his fellow keepers of the peace in Suffolk were attacked whilst holding their sessions. Sir Thomas de Holebrok, with an armed retinue in attendance, it was said, 'took [Loudham] by the throat, hurled him to the ground, and prevented him and his fellows from discharging their office'.[68] Recent historiography has done a valuable service in charting the expansion of law in the midst of the Edwardian war state; but to scratch the surface still reveals a society attached to the robust pursuit and defence of its interests.

With these and other obstacles exacerbating the problems of containment, the crown's most powerful weapons against maladministration were necessarily punitive and retroactive. Though it fell very unevenly, the weight of the king's justice fell conspicuously and it fell often. It was especially pronounced during the mid-fourteenth century when the military campaigns of Edward III made efficient government an issue of heightened sensitivity. Judicial intervention took various forms. Individual officials, units of administration and types of business were each targeted specifically at different times during the period, in response to private and crown complaint. Some of these special inquiries, having disturbed the murky depths, escalated into much more thoroughgoing affairs. In addition to cases dealt with by the general eyre and trailbaston, there were also sporadic kingdom-wide investigations into the misdeeds of local officials (1274–75, 1289, 1314, 1317, 1320, 1328, 1331, 1335, 1340 and 1359). They often arose in anticipation of, or

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66 Jewell, *English Local Administration*, p. 201.

67 See Gorski, *Fourteenth-Century Sheriff*, p. 111, for examples; Musson, *Public Order and Law Enforcement*, pp. 270–76 provides some more detailed cases.

68 *Rotuli Parliamentorum*, vol. 2, p. 40. *CPR*, *1338–40*, p. 273. TNA, SC 1/35, 182.

immediately after, the king's absence abroad and therefore helped, symbolically, to assert or reassert his authority and restore people's faith in royal justice. As tools for bringing discipline to the shires they were highly visible, but they were also unwieldy, rather indiscriminate and often dismissed by sceptics as devices for raising money. The best studied of the fourteenth-century investigations, a product of Edward III's wrath in 1340–41, certainly aroused these suspicions.[69] On this occasion the justices were authorised to hear complaints going back to the king's accession in 1327. Their liberal imposition of fines persuaded many communities to offer up sums collectively rather than risk more searching enquiries into their affairs. The eagerness with which people bought pardons, irrespective of their guilt, makes it very difficult to assess either the extent of the problem as revealed by the investigation or its purgative and deterrent impact. Interpretative issues such as these bedevil our efforts to understand the crown's success in tackling corruption.

The crisis of 1341 has been widely discussed, but a few observations with broad application might be drawn from it and noted here. First was the low incidence of shrieval abuse. Because of the demands of the war it was purveyance that dominated proceedings, and this had been one of the king's chief concerns in launching the enquiry in the first place. Second, but stemming in part from this, was the much larger number of accusations made against former sheriffs whilst serving in other capacities. In other words, the magistracy or squirearchy from which sheriffs were drawn did not emerge from the exercise with much credit. Third was the lack of an obvious purge in the upper reaches of the administrative hierarchy. Once the storm had abated, most of those caught up in it, and who were still capable by the 1340s, were subsequently reappointed to the crown's service. The few who did not return seem to have been the very worst offenders, but this is not in itself conclusive proof of deliberate exclusion. Taken together these results reveal quite a lot about the limits of crown intervention in local government. They betray a readiness to wipe the slate clean, acute dependence on a group whose conduct was questionable, and an eagerness to receive fines which prevented the thorough 'house cleaning' that was really required.[70]

In sketching very broadly the strengths, weaknesses and character of fourteenth-century shire administration we have had to omit many important developments whose origins and significance have been treated at length elsewhere. This chapter has offered a view of the subject largely through the eyes of the shrievalty and those who served as sheriff during the period. From this survey it is clear that, in mobilising the nobility and gentry to lead the war effort abroad and the countryside at home, the crown was forced to make compromises on quality and efficiency that made the ideals of good government seem rather distant. The inadequacies of this emerging and expanding system left their mark in contemporary culture. Even

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[69] Gorski, *Fourteenth-Century Sheriff*, pp. 119–25.

[70] W.R. Jones, '*Rex et Ministri*: English Local Government and the Crisis of 1341', *Journal of British Studies*, 13 (1973): 3.

if the 'proude sherife' slain by Robin Hood was not modelled on an identifiable character, preserved in him were past recollections and current fears of royal authority gone bad. To remove or punish the habitually corrupt helped in preserving the working partnership between the king and the gentry; but it did not – and nor could it – eliminate abuse. Around the many obstacles discussed above the crown found ways of controlling and disciplining its agents that were compatible with its cultivation of a 'service aristocracy' or squirearchy.

In accepting the weaknesses of local government and the limits of royal authority, this chapter has offered a cautiously positive view of the sheriff and the system that functioned and evolved around him. Under strong and effective leadership it was very clear whose authority commissions signified, even though they were carried into the countryside in the hands of local proprietors.[71] By the same token, weak leadership cruelly exposed the system's frailties. Administrative chaos was but one symptom of more fundamental dysfunction. The chief lesson of the fourteenth century would appear to be the poor returns that came from overtly manipulating the organs of shire government in ways that went against, and not with, the grain of local opinion. Who the chief beneficiaries were will continue to divide opinion. For landed society as a whole it would be naive to ignore the advantage to be gained from closer ties between seigneurial and public authority. Within the ranks of the landowners, between the magnates and gentry for simplicity's sake, however, the burgeoning magistracy brought no clear or consistent shift in power or relations. Conflict has been well served by the literature. Cooperation has fared less well in comparison, but there is now some momentum behind the idea of a broadly successful partnership between the crown and the political community during the fourteenth century. In part this stemmed from improvements in quality – in law and justice, for example – but also it was reflected in the scale of the gentry's contribution to shire government. We should not fool ourselves that their reasons for serving were altruistic; but the proliferation of commissions and the many thousands of knights, esquires and others brought into the business of administration represented an achievement that has been underestimated.

[71] See the instructive example of John Braundys in 1374, cited by Musson and Ormrod, *Evolution of English Justice*, p. 55.

Chapter 4
Sacred Outlaws: Outlawry and the Medieval Church

Candace Gregory-Abbott

On 2 August 1328 several members of the Coterel gang, including James, John, and Nicholas Coterel, attacked the vicar of Bakewell, Walter Can, in the church and stole ten shillings from the offerings. Participating in the attack was Robert Bernard, parson, register of Lichfield cathedral and a teacher from the University of Oxford, who in June of that year had been officially removed from the parish of Bakewell.[1] Bernard would plead his case (in regard to the attack on Vicar Can) before the jurors of Bakewell, claiming the right of clergy. He was found guilty and remanded to the keepers of the archbishop of York.[2] The Coterels were a notorious gang of thieves, kidnappers, murderers and chronic debtors, who were active in the 1320s and were sometimes associates of the even more notorious Folville gang.[3] On 18 December 1330, Sir Roger de Wennesley[4] was ordered to arrest the Coterels and two other gangs. When he was unable to do so, on 20 March 1331, the Coterels were declared outlawed, which seems to have inspired them to expand the range of their criminal behaviour.[5]

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[1] J.G. Bellamy, 'The Coterel Gang: An Anatomy of a Band of Fourteenth-Century Criminals', *EHR*, 79 (1964): 699. Although Bellamy's article was first written several decades ago, it remains the most detailed study of the Coterel gang in particular and of criminal bands of the fourteenth century in general.

[2] Bellamy, 'The Coterel Gang', 710.

[3] Ibid., 699. The Coterel saga is played out in the *Calendar of Inquisitions Post Mortem***,** printed in *Calendar of Inquisitions Post Mortem and other Analogous Documents Preserved in the Public Record Office, vol. 15 Edward III* (London, 1904).

[4] Roger de Wennesley was the younger son of a local knight in Derbyshire, who had himself appeared before the courts of assize for having stabbed and killed Laurence Coterel in March, 1330. He was apparently entrusted with the job of arresting the Coterels on the basis of his past history with the gang. Edward III, like his grandfather, often used members of one gang against another. In this case, Roger was given a peacekeeping commission specifically to capture the Coterels. Roger eventually joined with the Coterels and was arrested in 1332. See Bellamy, 'The Coterel Gang', 702, 710, and B. Hanawalt, 'Fur Collar-Crime: The Pattern of Crime Among the Fourteenth-Century English Nobility', *Journal of Social History*, 8 (1975): 10.

[5] Bellamy, 'The Coterel Gang', 702.

Robert Bernard, who most likely was in the custody of the archbishop, was no longer with the Coterel gang and was thus exempt from the declaration of outlawry. However, the Coterels were associated with other members of the clergy, and they did, in their participation in the gang's criminous behaviour, incur that sentence. Despite his outlaw status, James Coterel, the leader of the gang, frequently found protection, succour and provisions with members of the clergy; the canons of Lichfield among them. Indeed, seven canons of Lichfield were accused of supporting and protecting the Coterels. According to the records of Bakewell jurors, the keepers of the peace for Derbyshire and Nottinghamshire, and the justices of oyer and terminer commission accused the seven canons of Lichfield.[6] The Coterels and their clerical allies thrived in the political chaos and general lawlessness of the despotism of Edward II and the Despensers, which continued into the reign of the young Edward III. In 1333 many associates of the gang were brought before the king's bench; most were eventually acquitted. The Coterels themselves and the criminal canons of Lichfield were never sentenced.[7] In fact, James, John and Nicholas Coterel seemed to have found new patrons in the canons of St Chad's in Lichfield. Robert Bernard remained a master at Oxford, and retained his living at Edith Weston until he died in 1341; and although he was no longer part of an active criminal band, he was accused of absenteeism in his duties at Lichfield cathedral.[8] Although the canons were not officially proclaimed outlaws, they clearly associated with men designated as such, and equally clearly exhibited criminal sympathies.[9]

This particular instance of intersection between outlaws and the church, in which the members of the church were actively conspiring with an outlaw band, is not typical of how the two normally interacted in medieval England. It was, however, one of many ways in which the sacred and the (criminally) profane connected. Law and church certainly met in other more congenial ways, including the dominating influence the church had over the law, by virtue of its dominance

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[6] Ibid., 702–703. Bellamy notes that three of the seven held high offices within the royal administrations of Edwards I, II and III. We must therefore consider their role as both bureaucratic administrators as well as members of the church.

[7] Ibid., 711.

[8] Ibid., 713.

[9] At this point I should acknowledge that this article will interpret the term 'outlaw' somewhat loosely, to include both those individuals on whom the technical designation has been declared, as well as those who were merely criminal (outlaw in the broader sense). The official proclamation of outlawry is a sentence by the crown or secular courts that a person has forfeited all legal protections; they were outside of the law, in a literal sense. Some outlaws went underground or outside of civil society (thus leading to the numerous Robin Hood legends) while others went into exile or abjuration of the realm. See M. Keen, *The Outlaws of Medieval Legend* (New York, 1961; repr. 2000), pp. 9–10; R.B. Pugh, 'Early Registers of English Outlaws', *The American Journal of Legal History*, 27 (1983): 319; and H.R.T. Summerson, 'The Structure of Law Enforcement in Thirteenth-Century England', *The American Journal of Legal History*, 23 (1979): 314.

over legal scholarship and literacy.[10] This study will examine two meeting points between outlawry and the sacred. First, it will briefly examine criminous clerks and address the question of what happened when sacred men became outlaws. Secondly, this chapter will also include a concise study of how the church offered a last chance of succour to outlaws and criminals, lay and clerical, through benefit of clergy and sanctuary. Examining both intersections of sacred and profane reveals the ambiguous legal status of clergy in medieval England, who continued to claim privileges such as right, or benefit, of clergy even as the crown attempted to establish greater control over English law.

From the twelfth century onward, the medieval English church was forced repeatedly to defend its right of clergy,[11] and also saw its rights of sanctuary limited. While these sea changes in the church's legal independence were largely due to reforms instituted by the crown, they were also due in part to the decreasing respect lay people of many classes had for the church and for its clergy. It is possible that the very public role played by some clergy in criminous behaviour contributed to this decline in status and what is viewed by many historians as an increase in anti-clericalism in the fourteenth and fifteenth centuries.[12] Yet it is also possible that accusations of crimes against the clergy were a result of anti-clerical feeling; [13] one must never assume that all accusations of criminal behaviour do in fact reflect true infractions of laws, secular or sacred. Some accusations may reflect frustration and dissatisfaction with the clergy or behaviour that was spiritually or socially inappropriate rather than genuine criminal activity. There were times when the church was led to defend the rights of benefit of clergy by defending outlawed priests.

Benefit of clergy – the right of clerks of whatever rank or order to be tried exclusively by the ecclesiastical peers, what is termed the courts Christian – dates from before the Conquest, and can be found in the Danelaw.[14] In its original manifestation, the right of clergy was limited to the right of clerks to call fellow-priests as compurgators when accused of serious crimes. As English law evolved, benefit of clergy expanded to include the right of clerks to be tried by their

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[10] C.P. Sherman, 'A Brief History of Medieval Roman Canon Law in England', *University of Pennsylvania Law Review and American Law Register*, 68 (1920): 242–3.

[11] C.R. Cheney views the actions of Becket against Henry II in defending the church's privileges, especially that of benefit of clergy, as the zenith of clerical independence in medieval England: C.R. Cheney, 'The Punishment of Felonous Clerks', *EHR*, 51 (1936): 215.

[12] Gabel disagrees, claiming that all the records reveal is a lay distrust of the privileges of clergy, not of anti-clericalism in general: L. Gabel, *Benefit of Clergy in England in the Later Middle Ages* (New York, 1969), p. 47.

[13] W.R. Jones, 'Keeping the Peace: English Society, Local Government, and the Commissions of 1341–44', *The American Journal of Legal History*, 18 (1974): 315.

[14] L.O. Pike, *A History of Crime in England, Vol. I*: *From the Roman Invasion to the Accession of Henry VII* (Montclair, NJ, 1968), p. 105.

ecclesiastical peers, held in ecclesiastical prisons, and the right to protect their property (personal and church).[15] Ultimately, benefit of clergy was a statement of the other-worldliness of the clergy, or rather, the non-worldliness of them. They existed in an extraterritorial legal realm.[16]

Benefit of clergy began when an accused criminal claimed it. It was not an automatic designation; because the cleric had vocally to assert his rights to the benefit, it was often viewed with scepticism by the accusing party, be it coroner, keeper of the peace, or victim. It was often perceived as an evasive tactic, to escape physical punishment, forfeiture of property (although that was not guaranteed by claiming benefit of clergy), or to escape from serfdom.[17] It had to be proven to both secular and church authorities, and was often contested and refused. At best it was perceived as an overly assertive act on the part of the church, a further way for clerics to distinguish themselves from the laity.

Once an accused claimed benefit of clergy, he had then to establish that he *was* clergy. It is important to consider that the designation of clergy was itself problematic. The medieval church recognised many degrees of clerical status, from fully ordained priests and regular monks, vicars and canons, to members of lay orders, chantry priests, private chaplains, and so on. As the Middle Ages wound to a close, and well into the sixteenth century, there was also an increase in the frequency of plurality, a form of clerical abuse in which a priest of any status (minor or major orders) held and collected the revenue from more than one benefice at a time. One notable feature of late medieval pluralism was the frequency with which pluralist priests held several parochial appointments, collecting the revenues from those parishes, and hiring clerics of minor orders (also known as lay priests) to carry out their daily parochial duties rather than tending to their flocks themselves. The subsequent exploitation and neglect of parishes by their priests, and the sin of clerical greed, certainly caught the attention of the Lollards and other critics of the church in general. It was also of concern to members of the clergy themselves; in 1367, Archbishop Thoresby of York included it in his

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[15] Ibid., p. 115.

[16] Perhaps one example will suffice to illustrate how crucial the stakes were. In 1302, a London merchant with previous criminous experience, named Richard Pudlicott, decided to rob the king's treasure at Westminster abbey. He was assisted by several monks, including the sacrist of the abbey, Adam of Warfield. The thieves were captured after selling some of their booty. When they were eventually brought to trial, Pudlicott and six other laymen were hanged, even though Pudlicott originally tried to claim benefit of clergy. Adam and several other monks did claim benefit, and were released to the church and escaped physical punishment. Thus being able to claim benefit of clergy successfully could literally be the difference between life and death. For more details on the crime, and the criminal career of Pudlicott, see J. G. Bellamy, *Crime and Public Order in England in the Later Middle Ages* (London, 1973), pp. 50–53, and n. 21.

[17] Gabel, *Benefit of Clergy*, p. 75, and Pike, *History of Crime*, p. 299.

reforms of the northern clergy.[18] The benefit of clergy was not always so liberally defined. During the Anglo-Norman period, under Henry I and Stephen it included 'ad sacros ordines pertinent et eis qui sacris ordinibus promoti sunt', which was normally limited in application to members of the high clergy.[19] During the reign of Henry II, there was first some easing of the restrictions on benefit of clergy, then in the Constitutions of Clarendon there was a concerted effort to introduce more limitation.[20] During the reign of Henry III, the definition of cleric as it applied to the benefit of clergy was expanded to include those of first tonsure, the psalmists: 'qui habet tonsuram clericalem.'[21]

Yet even while the classifications of clergy were expanded to include more degrees, the crown was also attempting to control and limit the application of benefit of clergy. In 1352 Edward III issued a statute defining and proscribing the limits of Ordinaries, in an attempt to produce a more exact designation of clergy.[22] This represents the crown's gradual assumption of more power over the laws of England.

Establishing that a particular individual fulfilled one of the accepted degrees of clergy was an important step in successfully claiming benefit of clergy. There were

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[18] In his regulations to reform the clergy in the wake of the devastations resulting from the plague, Thoresby sought to correct many clerical abuses, including uneducated clergy, and to correct the disturbing trend of deputising sacraments like marriage to the laity: J. Hughes, *Pastors and Visionaries: Religion and Secular Life in Late Medieval Yorkshire* (Wolfeboro, NH, 1988), p. 141.

[19] *Ancient Laws and Institutes of England*, *Leges Henrici Primi*, c. 57, as quoted in Gabel, *Benefit of Clergy*, p. 62.

[20] The third clause of the Constitutions of Clarendon decreed that the royal court decided if an accused would or would not stand trial, without allowing him to claim benefit of clergy until after a royal court decides he may do so: 'Clerici rectati et accusati de quancunque re, summoniti a Justitia regis venient in curiam ipsius, responsuri ibidem de hoc unde videbitur curiae Regis quod ibidem sit respondendum; et in curia ecclesiastica, unde videbitur quod ibidem sit respondendum; ita quod Justitia Regis mittet in cuiram sanctae ecclesiae ad videndum qua ratione res ibi tractabitur. Et si clericus convictus vel confessus fuerit, non debet de cetero eum ecclesia tueri.': Constitutions of Clarendon, printed in *Select Charters and Other Illustrations of English Constitutional History from the Earliest Times to the Reign of Edward I*, ed. W. Stubbs (Oxford, 1881), p. 138. Obviously, one would have to somehow make it known that benefit of clergy was a potential claim at the outset of the trial; thus the accused would still be claiming that status without it having any legal weight. See *Councils and Synods with Other Documents Relating to the English Church*, Vol. I, *AD 871–1204, Pt. II, 1066–1204*, ed., D. Whitelock, M. Brett and C. Brooke (Oxford, 1981), p. 159.

[21] *CCR*, *1231–1234*, pp. 460–61, as quoted in Gabel, *Benefit of Clergy*, p. 63. Even more explicitly, the court register of Archbishop Romeyn I, no. 1117, cites that degradation of criminous clergy from the status of *primam habens tonsuram*: for the reference see Gabel, *Benefit of Clergy*, p. 63, n. 11.

[22] Pike, *History of Crime*, p. 483.

several ways in which an accused criminal was able to establish his clerical status. The accused, having requested (demanded in some cases) benefit of clergy, was handed over from the secular arm to the bishop of his diocese or more often to the bishop's Ordinary, although in individual cases the accused had to prove benefit of clergy to the crown authorities before being handed over to the Ordinary. The Ordinary had the responsibility of taking physical charge of the accused, to escort him to the diocesan prison if one was available. If the accused was handed directly to the Ordinary upon first claiming benefit of clergy, the Ordinary was supposed to establish that the claims of clerical status were authentic to the satisfaction of the secular court as well as to the church.[23] Furthermore, in the fourteenth century clerical status had to be established by more than one proof. Clerical identity could be proved by certificates of tonsure or ordination, and the simple physical evidence of the tonsure itself might also suffice.[24] Similarly, the presence of clerical garb was also accepted as evidence. However, the most respected method of confirming clerical identity was through the test of literacy. This is perhaps one of the most telling aspects of the benefit of clergy, in regard to the larger social history of England in the later Middle Ages. Given that the ability to read, or to read and write, was indicative of clerical training, it was often assumed that anyone who had one of these skills was a cleric.[25] It reveals the monopoly that the church had on literacy and letters as a profession. The test of literacy could be as simple as handing a Bible to the accused, before the Ordinary and a justice, and the accused being able to read a couple of verses.[26] It was the Ordinary who proctored and evaluated the literacy test.

Throughout the latter half of the fourteenth century and the fifteenth, the literacy test gained in importance. It was also open to manipulation and susceptible to fraud, and as more accused criminals succeeded in claiming benefit of clergy based solely on their ability with letters, the more the entire privilege came to be viewed with suspicion and opprobrium. One exemplary case will suffice to illustrate this. In the Gaol Delivery Rolls of Edward III, the case of John, who was accused of murder and claimed benefit of clergy, reveals that the literacy test was of limited use in proving clerical identity. He was tested on his letters by both a secular judge and by an Ordinary. It was clear to both that he could not read, although he had memorised passages from the psalter. The Ordinary refused to claim him as clergy. But it is here that his story becomes all the more intriguing. He eventually confessed that he was a layman, and had learned a few verses by rote while in prison, from other prisoners. If he had successfully learned even a

[23] Luckily they were also included in the Episcopal Registers, and thus leave evidence for the historian of benefit of clergy to trace.

[24] Gabel, *Benefit of Clergy*, pp. 63–4.

[25] Ibid., pp. 64–5. Gabel also notes that just because a man who could read was assumed to be a cleric that did not mean that all clerics could read.

[26] Ibid., p. 67.

modicum of literacy, the mere ability to read a few words, he would have been able successfully to claim benefit of clergy.[27]

There were three ways in which the criminal cases of the recognised clergy were potentially handled. First, of course, the accused clerk appeared before one of the common courts; there is not space here to describe the organisation of the secular courts in England from the eleventh through the fifteenth centuries.[28] Suffice it to say that at some point between the commital of the crime, raising of the hue and cry, and the appearance before a coroner or judge, the accused was brought before a secular court. There, if he was a clerk or wanted to claim to be one, he had three options.[29] In the first, he could immediately claim full benefit of clergy and refuse to be tried by anything other than an ecclesiastical court or that at least an Ordinary be present. In the second, the accused could stand trial as a layman, before a lay jury without claiming to be clergy or having an Ordinary present, and await the verdict. If the verdict went in his (the accused) favour, he need never claim or attempt to claim clerical status. If, however, the verdict was delivered against him, the accused/defendant could then claim to be clergy and would be treated as a 'convict cleric'. If his claim to be a cleric was recognised, his punishment then became the responsibility of the Ordinary or the bishop himself. Finally, the third option was to claim clerical immunity, but then allow the secular trial to proceed, and reserve the right to invoke clerical benefit if the outcome was not favourable. In many instances, the lay judges had the right to proceed with trial, obtain a verdict, and then deal with any claims of benefit of clergy. The deliberations of the jury in the latter situation were to proceed without any consideration of the accused's clerical status, for that was a separate legal issue.[30] Presumably this allowed for the secular courts to empanel a jury and convene and conclude a trial, while any determinations of clerical status were made.

From the crown's point of view, the autonomous nature of benefit of clergy was always problematic. It was a persistent, thorny barrier to the attempts by various post-Conquest kings to standardise English law under crown jurisdiction.[31] However, because the distinction between crown and church law was never as clearly defined as either side would have liked, both sides were able to manipulate their privileges.[32] Luke Owen Pike recounts an encounter between Henry II and Becket over a canon who had insulted a member of Henry's justiciary; both Henry

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[27] Gabel, *Benefit of Clergy*, p. 73.

[28] Bellamy, *Crime and Public Order*, pp. 121–61, and C. Carpenter, 'Law, Justice and Landowners in Late Medieval England', *Law and History Review*, 1 (1983): 205–37.

[29] For more detailed descriptions of the three options, see Gabel, *Benefit of Clergy*, p. 32, and Pike, *History of Crime*, p. 298.

[30] Gabel, *Benefit of Clergy*, p. 33.

[31] Notably William I, Henry II, Edward II and Edward III.

[32] Benefit of clergy was based on precedent and custom, supported by decretals and canon law. One of the problems, from the point of view of the crown,was that the privileges were based on a legal source (canon law) over which the crown had no authority.

and Becket claimed the right to punish the canon (Becket had him degraded in status; presumably Henry sought a more physical punishment), and both claimed that right from precedent.[33] Ironically, both had grounds for their competing claims of precedent**.** Frequently the dispute over benefit of clergy involved interpreting not precedent but what criminous activity had occurred or was believed to have occurred. For instance, during the reign of Edward III, a rector named Guy Mortimer of Kingston-upon-Hull had a parishioner forcibly held down[34] while he cut off the man's upper lip. Two of the clerical attackers were apprehended and brought before the court of the king's bench where they tried to claim the benefit of clergy. The court did not attempt to refute that claim. Instead it declared that the crime was one of trespass (which was not protected by benefit of clergy), not felonious assault. Eventually both clerks had to pay a fine to the court and spent some time in the king's prison.[35]

By the end of the fifteenth century, the crown began to step up its attempts to expand its control over benefit of the clergy. In 1488, in one of Henry VII's many attempts to limit the privileges of the clergy and to normalise the legal system overall, the king decreed that for certain felonies (murder, theft, rape, among others), clerks who were in fact laymen could only claim benefit of clergy once. If they were accused of the same crime a second time, they lost the privilege of benefit.[36] Perhaps inspired primarily by the fear of repeat clerical offenders, such as those associated with the criminous gangs, the new statute was also designed to distinguish between manslaughter and homicide. In the sixteenth century, Henry VIII would expand these limitations even more by excluding laymen from claiming benefit of clergy for the first accusations of certain felonies.

The procedure of trial for clerics was one of the ways in which the crown could limit the privilege of benefit altogether, by making it more difficult for accused criminals successfully to claim benefit of clergy. The 1268 Statute of Marlborough (52 Henry III), states that the accused might be physically handed over to the Ordinary or bishop, but that the secular trial could continue and the accused fully convicted by the lay jury.[37] This was reiterated in the Statute *Pro Clero* by Edward III in 1352.[38] This was a significant reordering of the trial process, because, if

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33 Pike, *History of Crime*, p. 116.

34 Notably by other clergy.

35 Pike, *History of Crime*, p. 212.

36 *Statutes of Henry VII*, 4 Henry VII as cited in T.A. Green, 'The Jury and the English Law of Homicide, 1200–1600', *Michigan Law Review*, 74 (1976): 475. Henry VII and Henry VIII also limited and eventually eradicated the privilege of sanctuary, which of course also presented fewer legal options for lay people, as well as for clergy.

37 *Statute of Marlborough*, 52 Henry III, *Statutes of the Realm*, as quoted in Gabel, *Benefit of Clergy*, p. 35, n. 34.

38 'Item come les ditz Prelatz eient grevousement pleint enpriant ent remedie de ce qe clercs seculers auxi bien Chapelleins come autres, Moignes et autres gentz de religion, eient este treinez et penduz par agard des Justices seculers, en prejudice des franchises et

found guilty by the secular courts, the accused cleric's property became forfeit to the crown, who held it and benefited from it until such a time as when the accused successfully claimed clergy.[39]

The lay procedures described thus far treated the accused clerk as they would any other accused criminal. Once the accused had established benefit of clergy and the ecclesiastical proceedings began, the sacred courts had as many options for handling the criminous clerk as did the secular courts. The church could accept any pronouncements of crime or conviction from the lay courts, or it could ignore those convictions, and a canonical trial (one that followed the dictates of canon law) could be held independently of the lay trial.[40] In the case of a canonical trial, the church court followed the practices of frankpledge. Once committed to the bishop's prison or the protection of the Ordinary, the court allowed the accused to establish that he was a person of 'good fame' (his purgation, a declaration of innocence of the charges) and produce a certain number of compurgators to swear that what the accused said was true.[41] What they were really attesting to was the trustworthiness of the accused; and they did not necessarily need to be witnesses of the criminal act in question. The numbers of compurgators varied, averaging 12. Nor did they all have to be clerics themselves; the only requirements were that they be neighbours who knew the accused well and were themselves men of 'good fame' or standing.[42] Witnesses were also summoned to speak on behalf of the accused person's character. If the inquest found him not guilty, he was restored to his property and former status, and formally proclaimed to still have 'good fame'. If found guilty, he would be degraded from his orders and sentenced to some sort of physical punishment, usually imprisonment (perhaps for life, depending upon the nature of the crime). Naturally penance would always be assigned. If the clerk was officially proclaimed an outlaw, that is, if he failed to make his required appearances before the court and was declared an outlaw, he might even be forced to abjure the realm.[43] If so, he forfeited his right to purgation and severely limited

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depression de jurisdiccion de seinte eglise; si est acorde et graunte par le Roi, en son dit parlement, qe touz maneres des clercs, auxibien seculers come religiouses qi seront desore convictz devant les Justices seculers.': 25 Edward III, as quoted in Gabel, *Benefit of Clergy*, pp. 35–6.

[39] Ibid., p. 41.

[40] Cheney, 'Punishment', 219–20, discusses cases in which the church hands the criminous clerk back to the secular authorities for trial and punishment, even if clerical identity had been established.

[41] Gabel, *Benefit of Clergy*, pp. 94–5, Pike, *History of Crime*, p. 299.

[42] Gabel, *Benefit of Clergy*, p. 103.

[43] By the thirteenth century it was standard procedure that five failed appearances before the court could warrant a declaration of outlawry. Given that sometimes it took two scheduled sittings for the jury to show up, more than likely the church thought five was a fair and reasonable number of chances the accused had to appear. See Bellamy, *Crime and Public Order*, p. 90. It is important to note that outlawry was a sentence itself. No

his right to benefit of clergy. Technically an outlaw lost all clerical status and had to be pardoned of his outlawry before being allowed purgation or any other benefit.[44]

Tracing the history of benefit of clergy, and its eventual eradication, is to trace the ups and downs of both church and crown authority, and the often contentious relationship between the two. As the crown moved to solidify its singular authority over law, the church was ever more emphatic in defending its privileges, even when it meant defending known criminous clerks. In fact, what the church was defending was its right to prosecute and punish its own, not the accused or their crimes. Benefit of clergy was not without repercussions for the church. It was the source of class strife, abuses of it led to more criticism of clerics, and some historians have speculated that it led clergy to more criminal behaviour than they would have committed otherwise.[45]

Examining select cases of criminal behaviour by members of the clergy exposes the extent of clerical criminality. Yet it also reveals something much more significant about daily life in medieval England. However much the church wanted to separate itself from the mundane and earthly, by reinforcing its privileges of benefit of clergy and sanctuary and other features that distinguished it from the laity, it could not escape the reality that it was very much a part of the reality of the commonplace. It was of the realm, not outside it. Its members were susceptible to the same human impulses, societal pressures and customs, as the laity. Members of the clergy could also turn to criminal actions to deal with feuds, greed, petty squabbles, jealousy, and violence, although they were not necessarily as likely to do so as the laity. A few examples should suffice.

The Coterel gang was not alone in having clerical members; the Coterels' rival fourteenth-century criminal band, the Folvilles, also had criminous clergy as associates. Robert Helewell, simply referred to as a clerk, was implicated as an accessory to a murder by the Folvilles, while Alan of Baston (canon of Sempringham) was indicted for harbouring the Folvilles.[46] These two cases suggest

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one could be convicted *in absentia*; thus, if someone was accused of murder and failed to appear before the court more times than was allowed, this person could only be sentenced to outlawry and nothing else warranted by the murder: Bellamy, *Crime and Public Order*, p. 104. If outlawed, one could not technically be accused of another crime: one was outside the law.

[44] Gabel, *Benefit of Clergy*, p. 107. Conversely, if a man was convicted of a secular crime he was banned from ordination. Thus if a clerk was stripped of his clerical status through conviction, he could not be re-ordained unless pardoned. See R.H. Helmholz, 'Crime, Compurgation and the Courts of the Medieval Church', *Law and History Review*, 1 (1983): 4.

[45] Pike, *History of Crime*, p. 297.

[46] Assize Rolls, 477, as cited in E.L.G. Stones, 'The Folvilles of Ashby-Folville, Leicestershire, and their Associates in Crime, 1326–1347', *Transactions of the Royal Historical Society*, 5th series, 7 (1957): 123.

examples of clergy as active criminals and of a more passive criminous behaviour, that of protecting criminals.

In 1349, two abbots and a prior were accused of plundering land held by the countess of Lincoln. The abbots of Sherborne and of Middleton, and the prior of Horton, were accused of stealing timber and game from the countess.[47] At times, the victim of clerical violence was another member of the clergy; in another incident of the same year, a gang including chaplains attacked the archbishop of Canterbury's trees, crops and cattle.[48] Numerous similar incidents against the property of powerful and wealthy clerics can be gleaned from various court records. Particularly common were attacks on parks, cattle and crops. The possible motivations of the felonious clergy are worthy of investigation. Luke Owen Pike speculates that the clergy responded to moments of institutional crises (such as the civil war between Stephen and Matilda), during which both the clergy and the nobility seized the moment to advance their own interests.[49] It is not unreasonable to assume that the clergy also responded to political, legal and social uncertainty by setting aside moral and ethical values to take advantage of the opportunities.

The Coterel gang and its associated criminous clergy, as described at the beginning of this chapter, are certainly among the most notorious examples of clerical injustice from the Middle Ages. A more famous example comes in the large, merry body of Friar Tuck. While the question of whether there was a real Robin Hood has preoccupied many scholars of outlawry, the career of Friar Tuck is equally intriguing. Called 'Frere Tuck' and said to be the leader of his own merry gang of murderers and thieves, he was really Richard Stafford, a chaplain.[50] He was never tried in a court, perhaps because, like many an outlaw, he never bothered to appear, and was eventually pardoned. Many of the crimes he was charged with involved poaching, perhaps undertaken in an act of charity to feed the poor, perhaps out of greed and ambition.

When it came to actually punishing felonious clergy, the ecclesiastical courts saw it not only as an opportunity to preserve its privileges and hold on to its properties, but also as a way to enact justice with mercy.[51] Tempering justice with mercy also lay behind the church's privilege of sanctuary. In a way, the chance to be both judgmental and merciful was another of the church's prerogatives; it was allowed to be kind when the crown had to be severe. Sanctuary was an archetypal instance of this mercy. While not entirely unique to England, the organisation of sanctuary and its regular accompaniment of abjuration of the realm, was particularly well defined under medieval England's laws and customs.

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47 Pike, *History of Crime*, p. 247.

48 Recounted in ibid.

49 Ibid., p. 114.

50 Keen, *Outlaws of Medieval England*, pp. 202–3.

51 The crown had its own kind of mercy, in the form of the pardon.

Sanctuary was thus another instance of the intersection of the sacred with outlawry.[52] Sanctuary offered a way for the church to participate in the secular legal system even while it also offered a refuge for criminals, lay and clerical. In addition to protecting criminous clerks who might find themselves proclaimed outlaw, forced into exile from their immediate community (which ironically led many to join or form criminal gangs and embark on a life of more crime) or to abjure the realm entirely, sanctuary was also a way in which the medieval church intersected with criminals from the laity, some of whom were outlaws in the broader sense of criminals evading the courts, and some of whom were declared outlaw in a technical sense. Sanctuary was never intended to be a final settlement of criminal matters so much as a temporary respite to prevent miscarriages of justice, although the actual playing out of sanctuary varied. In the emotionally charged period right after a crime was discovered, sanctuary allowed for the hasty and probably unconsidered desire for revenge to be brought under control and for cooler heads to prevail. Sanctuary was not intended to replace punishment, but to allow the suspect criminal protection until proper legal proceedings could be convened. It was a refuge for people who had committed crimes as well as those suspected of them. This practice caused its own conflict with the state. On the one hand, the state resented the idea that churches could claim yet another privilege, outside its power and control, while on the other hand, sanctuary prevented blood feuds or escalating violence and allowed an opportunity for the state's own legal machinery to be utilised. Sanctuary could be followed by eventual prosecution and punishment, including proclamations of outlawry, or by voluntary exile known as abjuration of the realm.

Right to sanctuary was granted to individuals according to the nature of the alleged crime and their ability to reach a designated sanctuary space. What constituted sanctuary space was as debatable as the rights of benefit of clergy; the church claimed many of its sacred spaces and church-held property as sanctuary. In addition, there were several secular liberties designated by custom as sanctuaries, and some ecclesiastical sanctuaries that were granted rights to permanent sanctuary.[53] It is worth noting that the secular liberties and the permanent

[52] There are several useful studies of sanctuary rights; the most exhaustive is J.C. Cox, *The Sanctuaries and Sanctuary Seekers of Mediaeval England* (London, 1911). See also I.D. Thornley, 'The Destruction of Sanctuary', in *Tudor Studies*, ed. R.W. Seton-Watson (New York, 1924, repr. 1969); P.I. Kaufman, 'Henry VII and Sanctuary', *Church History*, 53 (1984): 465–76; Bellamy, *Crime and Public Order*, pp. 89–120. Future work on sanctuary might focus on those who sought sanctuary on the continent and discover what it meant to be a criminal in exile.

[53] Permanent sanctuary status was held by a number of churches mostly in the north and east of England. Places of permanent sanctuary included the county palatine of Durham; Norhamshire, Islandshire, and Bedlingtonshire in Northumberland (which belonged to the cathedral of Durham); a couple of places in York as well as the archbishop of York's liberties of Beverley, St Peter's, Hexhamshire and Ripon; the counties palatine

sanctuaries were even more problematic for the crown, which viewed them as a threat to the crown's jurisdiction.[54] Some sanctuaries marked the boundaries of their holdings, such as the placement of crosses to demarcate the extent of a church's sanctuary.[55] Other sanctuaries were not so clear, and there were many disputes about whether sanctuary privileges had in fact been violated when a suspected criminal was seized from an unmarked site. Many, both common lay people and members of the secular justice system, criticised the church's claims to sanctuary as much as they criticised the abuses of the benefit of clergy. Places such as Southwark became infamous for the number of sanctuaries and the regularity with which that privilege was perceived as being abused.[56]

There were rules about the use of sanctuary. The sanctuary privilege was normally available only to those accused of serious felonies that warranted potential execution if conviction occurred. However, some of these felonies, such as treason and heresy, were excluded from sanctuary because they were deemed to be too serious and, as a potential threat to the crown and church, had to be dealt with promptly.[57] Perhaps because both treason and heresy were likely to involve conspiracies, the gift of a delay in trial and sentencing was deemed too dangerous. Occasionally, those accused of lesser crimes claimed sanctuary, but repeat offenders could be denied the privilege. Debtors were also excluded from sanctuary, although many attempted to claim it and some churches attempted to allow this. Edward I passed a law in 1278 that allowed the crown to seize the property of debtors who tried to claim sanctuary. Outlaws were by definition excluded, as they had no protection under the law.

There was an expected procedure to sanctuary.[58] First the suspected lawbreaker was supposed to confess, surrender any weapons (many fled into sanctuary closely pursued by victims, victims' families, or officers of the courts, and were thus armed for self-defence), and then surrender himself or herself to the clerical authority

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of Lancashire and Cheshire; and, in London, St Martin's le Grand. Glastonbury was also a permanent sanctuary. There were several other locations, which amounted to a substantial amount of the territory of England, that lay outside of the crown's legal reach. See Thornley, 'Destruction of Sanctuary', p. 184. Grants of secular sanctuary and permanent sanctuary date in some cases back to the Anglo-Saxon period: see Cox, *Sanctuaries and Sanctuary-Seekers*, pp. 6–7.

[54] Thornley, 'Destruction of Sanctuary', pp. 183–5, and Kaufman, 'Henry VII and Sanctuary', 467.

[55] Bellamy, *Crime and Public Order*, p. 106.

[56] *Liber Albus* (*Munimenta Gildhallae Londaniensis*), vol. 1, ed. H.T. Riley (London, 1859), as cited in Pike, *History of Crime*, p. 235.

[57] Along with sanctuary, the possibility of pardon was also denied to those accused of heresy or treason.

[58] Cox, *Sanctuaries and Sanctuary-Seekers*, pp. 1–34, and Bellamy, *Crime and Public Order*, pp. 107–8. The subsequent description of how sanctuary worked comes from these two sources.

of the sanctuary. Suspects were then registered, along with all the details of the crimes in question. Often they had to take oaths to uphold the regulations of the religious house they were in, and were expected to perform service as well.[59] Some sanctuaries provided food for suspects, others required them to obtain food through their own devices, either by leaving the sanctuary or by gifts. Obviously, suspects caught outside of the sanctuary's boundaries forfeited their rights to sanctuary. To prevent suspects or criminals from escaping sanctuary without facing trial or some kind of repercussion for their crimes, watch was set up, comprised of one man from each of the four neighbouring towns or vills.[60] The coroner was then summoned. Once the suspect entered sanctuary, he or she usually had 40 days to either abjure the realm or surrender to a trial.[61] Sanctuary rights were not inviolable. If the crime was particularly heinous the crown or religious authorities might order the suspect to be removed by force; in 1322, a woman killed a clerk in All-Saints-by-London church and tried to claim sanctuary there. She was removed, tried and hanged by the orders of the bishop of London.[62]

Once the designated time of sanctuary was over, the accused might take an oath of abjuration and set a date for quitting the realm. Abjuration might be a civil sentence but still required the involvement of the church, in that the abjurer had to offer confession before leaving the realm. The abjurer was assigned by the coroner a port of embarkation, normally Dover, and given a specific amount of time to reach the port, from a few days (often three) to perhaps several weeks (depending upon where the abjurer originated).[63] Sometimes abjurers were branded, often they were required to dress as penitents or pilgrims, for that is in essence what they had become. During the trip, if the criminal stayed to the main roads, he or she was supposed to be left unmolested. If, however, he or she left the main roads, or exceeded the allotted days of travel, or failed to reach the designated port altogether, they lost all rights to sanctuary; killing someone who had violated their oath of sanctuary was allowable.[64] How many men and women simply vanished into the woods, into a criminal gang, into a new life or died, on their way to their port is unknown.[65] Naturally, of those who reached their port, many terminated their voyage of exile in France or the Low Countries.

In cases of clerics who used sanctuary, there were special rules that applied to them, a sanctuary version of the benefit of clergy. For instance, a clerk could not be forced to abjure as could lay criminals who had exceeded their 40 days of sanctuary

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59 For instance, in Beverley they had to ring the bells: Bellamy, *Crime and Public Order*, p. 108.

60 Thornley, 'Destruction of Sanctuary', pp. 182–3.

61 Bellamy, *Crime and Public Order*, p. 108.

62 Ibid., p. 109.

63 Ibid., p. 112.

64 Pike, *History of Crime*, p. 232.

65 Ibid.

time.[66] In 1299, men of the town of Ludlow forcibly carried away a clerk from the sanctuary of the Austin Friars. When Edward I was informed by the bishop of Hereford, the king ordered the clerk to be removed from the secular prison where he was being held and returned to the church. These clerical exceptions to the rule of sanctuary further illustrate the thesis of this chapter: criminous clergy existed both within and without their society, being part of its legal ills but also in many ways exempt from the crown's legal system. Thus they represented not only a danger to civil order but also an impediment to the standardisation and unification of laws in England under one jurisdiction, that of the crown.

[66] Cox, *Sanctuaries and Sanctuary-Seekers*, p. 19, also Cheney, 'Punishment', 225.

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Chapter 5
‘Sons of Iniquity’: The Problem of Unlawfulness and Criminality amongst Professional Soldiers in the Middle Ages[1]

Neil Jamieson

Crime caused outlawry. In particular, serious, persistent crime could result in an individual being branded as an outlaw. Offences of murder, rape, arson and theft were regarded as heinous crimes which could put a person beyond the laws of society. Outlawry was, at least in theory, a terrible punishment. However, for soldiers, acts such as murder, rape, arson and theft could form a regular feature of their lives. The brutal nature of medieval warfare meant that these crimes were relatively commonplace and soldiers were given, in effect, a licence to commit them by the authorities in whose cause they fought. That such behaviour took place in war was accepted, within limits, provided soldiers fought with the sanction of an appropriate authority.[2] Problems arose when that authority was absent and soldiers were seen to be fighting illegitimately in their own interests. In such a situation the soldiers could be regarded as criminals sustaining themselves by crime and liable to the punishment of the law. They could find themselves treated as outlaws, against whom lethal force could legitimately be used by those in authority.[3]

There was a fundamental dichotomy in the attitude of medieval society towards violence and warfare. There can be no doubt that the ethos of the aristocracy, the dominant social class of the Middle Ages, was that of a warrior elite, who glorified participation in warfare, along with more general aristocratic violence, in the pursuit and defence of honour. Of course, the real role of the aristocracy in society was more complex: their involvement in government, the administration of the law and the management of land is all self-evident, yet the aristocracy still perceived themselves as warriors. This is most clearly demonstrated in the aristocratic cult of chivalry, where ideals of courtesy, generosity, loyalty and courtly love were upheld alongside a devotion to skill with arms and the right to use violence whenever

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[1] The phrase ‘Sons of Iniquity’ was used by Pope Urban V to describe the companies threatening Avignon in 1360: see K. Fowler, *Medieval Mercenaries* (Oxford, 2001), vol. 1, pp. 28–36.

[2] For the concept of the Just War in the later middle ages, see M. Keen, *The Laws of War in the Later Middle Ages* (London, 1965), section 2.

[3] See, for example, p. 109 below.

necessary to defend the honour of the individual aristocrat, or his lord. There is thus a sense that, for privileged members of an aristocratic elite, violence was not only allowed but in certain circumstances positively encouraged as a means of winning and protecting their honour.[4] Such attitudes could hardly help to stabilise society and it has long been a commonplace observation amongst historians that the aristocracy, far from providing an example of lawfulness to their social inferiors, often appear as the cause of much of the violence which was endemic in medieval society.

However, attitudes towards violence in society, whether originating in the aristocracy or from lower social orders, were very far from being those of simple acceptance. In particular, the church was active in its condemnation of many forms of violence and warfare. This is hardly surprising, as the church was, in many respects, in a uniquely vulnerable position. The medieval church was undoubtedly Europe's largest landowner and possessed immense amounts of moveable wealth. Consequently, it was often a target for violent attack as others sought to appropriate the wealth of the church for themselves. From an early period in its history the church had sought to formulate a response towards the violence and constant warfare of medieval society.[5] Specifically, it sought to obtain immunity from attack, both for its personnel and its property. It also sought such immunity for others in society: women, children and peasants being amongst those whom the church sought to bring under its protection. The success of such efforts by the church was patchy and tended to result in the church itself sponsoring violence against those who disobeyed its instructions: perhaps best demonstrated by the Truce of God movement which originated in eleventh-century France, before becoming a more general European phenomenon.[6] In particular the church sought to outlaw private warfare, insisting that only conflicts sanctioned by an appropriate authority, either a secular prince or the church itself, could be regarded as legitimate. The church regarded all other conflicts as illegitimate, banditry by another name, and those who involved themselves in such conflicts placed themselves outside the law, at risk of punishment from the ecclesiastical or secular authorities.

Nor was the church the only institution which sought to limit the violence in medieval society. Increasingly, secular authorities sought to play a role in the suppression of unlawful violence. For example, in 1103 the emperor Henry IV proclaimed a general peace throughout his territories, although given the compromised nature of the emperor's authority the proclamation, which took place during a church synod held at Mainz, can only have had very limited effect.[7] English kings were, by and large, able to eliminate private war from their territories;

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[4] See, on this subject: M. Keen, *Chivalry* (New Haven and London, 1984); R.W. Kaeuper, *Chivalry and Violence in Medieval Europe* (Oxford, 1999).

[5] See C.H. Russell, *The Just War in the Middle Ages* (Cambridge, 1975).

[6] M. Bull, *Knightly Piety and the Lay Response to the First Crusade* (Oxford, 1993), pp. 21–56.

[7] I.S. Robinson, *Henry IV of Germany* (Cambridge, 1999), pp. 318–20.

only when royal authority was gravely undermined – as, for example, during the reigns of Stephen and Henry VI – did serious conflict become a possibility.

Nevertheless, it must be admitted that these efforts to curb violence and warfare enjoyed, for the most part, only limited success. In large measure the political history of Europe during the Middle Ages is a history dominated by warfare. Moreover, as the period progressed wars increased in scale, ferocity and duration, yet decisive results often eluded those who turned to warfare to solve their political problems. Wherever we look in medieval Europe there are armed conflicts and these conflicts increasingly spawned those whose very livelihoods depended on warfare, professional soldiers who built careers around military service, with all the attendant problems the existence of such men had for society.

In eleventh-century Europe warfare was an ever present fact of life.[8] Raiding, sieges and battles were frequent as aristocratic rivals struggled for dominance. The overall impression is of a maelstrom of violence. Superficially, the following centuries present a more peaceful appearance. However, this impression of more settled times is largely an illusion. Conflicts remained and warfare was just as prevalent, a significant difference being that now warfare was increasingly prosecuted by the powerful kings of Europe. If some of the more petty conflicts of the previous century were declining they were replaced by larger, albeit perhaps more geographically limited, conflicts which were just as damaging and consumed even more resources.

The fourteenth and fifteenth centuries saw warfare on a scale unparalleled in medieval history. The central conflict of the era was the Hundred Years War which began in 1337 and dragged on until 1453.[9] Although a conflict primarily between England and France, fought, for the most part, in France, the war involved many other kingdoms and areas of operation. Heavy fighting took place on the borders of England and Scotland, as the Scots tried to maintain their independence from England and support their French allies. There was fighting in Spain as the rival powers backed different candidates for the throne of Castile.[10] The war also spilled over into the Low Countries and often involved German princes, who were sought as allies by the rival powers. The war required men and resources on an unprecedented scale and the physical devastation of France, in particular, was extensive.

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[8] For medieval warfare in general, see P. Contamine, *War in the Middle Ages*, trans. M. Jones (Oxford, 1986); J. France, *Western Warfare in the Age of the Crusades, 1000–1300* (Cornell, 1999).

[9] The secondary literature on the Hundred Years War is extensive: good, general introductions can be found in C.T. Allmand, *The Hundred Years War: England and France at War c. 1300–c. 1450* (Cambridge, 1988); A. Curry, *The Hundred Years War* (London, 1993). The most detailed accounts of the fighting up to 1369 can be found in two works by Jonathan Sumption: J. Sumption, *Trial by Battle* (London, 1990) and *Trial by Fire* (London, 1999).

[10] See P.E. Russell, *The English Intervention in Spain and Portugal in the Time of Edward III and Richard II* (London, 1957).

Moreover, the Hundred Years War was not the only conflict to dog Europe at this time. Many other areas of the Continent were plagued with wars. Spain saw bitter civil wars and continued clashes with the Moors.[11] Germany saw almost continuous minor conflicts between the princes of the empire. Perhaps the most significant struggles took place in Italy, where the principal Italian powers, Milan, Venice, Florence and Naples, competed for authority and territory. Conflict was frequent and between 1423 and 1454 there was a particularly long series of wars between the allied powers of Venice and Florence and their rival Milan. These wars were terminated by the peace of Lodi in 1454, which created an Italian league designed to keep the peace in the peninsula: an ambitious undertaking in which the league was only partially successful.

The litany of European conflict given above is necessarily brief. However, it will convey some impression of how prevalent warfare was in the Middle Ages. There were very few parts of the Continent which enjoyed extended periods of domestic peace and some areas, notably parts of France, were battlegrounds for many years. This constant warfare had consequences beyond the devastation it caused. The need to fight wars, and to fight them in ever-increasing scale and duration, led the monarchies of Europe to mobilise resources more effectively in an attempt to gain military success. This process led to changes in the way in which governments organised resources, which in turn had a wider impact on society.

The need for money was paramount, as without it soldiers could not be paid or supplies purchased. War consumed huge amounts of cash and could bankrupt kings.[12] The search for money to pay for war had the capacity to change the relationship between ruler and subject in surprising ways: the experiences of the English and French monarchies during the Hundred Years War provide dramatic contrasting examples of the effects the demand for money could have. In England, the demands of war finance led to increased cooperation between the king and his subjects, as the king sought consent to his requests for money through Parliament, and was usually prepared to grant political concessions in return for cash.[13] However, in France the opposite effect can be observed, as the king obtained the right, as a result of the pressures of constant war and crisis, to collect certain taxes without specific consent.[14]

If money was required, so was manpower. Determining the numbers of men in medieval armies can be a controversial issue: however, it does appear that, in general, armies grew larger as the period progressed. In the eleventh century major campaigns could be fought with a few thousand men. Many estimates suggest

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[11] W.H. Prescott and A.D. McJoynt (eds), *The Art of War in Spain. The Conquest of Granada 1481–1492* (London, 1995).

[12] For the financial disaster that overwhelmed Edward III of England in 1337–38, see C.J. Rogers, *War Cruel and Sharp. English Strategy under Edward III, 1327–1360* (Woodbridge, 2000), chapter 6.

[13] S.L. Waugh, *England in the Reign of Edward III* (Cambridge, 1994), chapter 12.

[14] D. Potter, *A History of France 1460–1560* (London, 1995), p. 136.

that the Norman army which invaded England in 1066 contained around 6,000–7,000 fighting men. This was a force recruited from a wide area and most armies would have been much smaller.[15] The size of armies remained relatively small in the twelfth century. The Angevin king of England Henry II, for example, used small forces to control his extensive territories: modern estimates suggest he could operate effectively with a few hundred mercenary infantry plus cavalry.[16] In this era, even a major battle, such as Bouvines in 1214, could be contested by less than 20,000 men.[17]

During the thirteenth century, most notably by the monarchies of France and England and by the major Italian states, much larger forces were raised, reflecting the increasing wealth and administrative sophistication of these powers. In 1298, Edward I mustered a force of perhaps 4,000 cavalry and 26,000 infantry for his invasion of Scotland.[18] Recruitment on this scale could not be sustained, but armies of considerable size continued to be mustered throughout the fourteenth and fifteenth centuries. The army with which Edward III invaded France in 1346 contained around 15,000 troops,[19] whilst Henry V invaded France in 1415 and 1417 with armies numbering, on both occasions, well over 10,000 men.[20]

Recruitment on this scale had considerable social implications; numbers could often only be maintained through some means of compulsion, which could lead to problems of desertion. One contingent of infantry mustered for service under Edward I in Scotland in August 1300 contained 643 men initially, but only 407 actually arrived to serve.[21] Edward was forced to legislate harshly to punish those who deserted, imprisoning the culprits and recovering their wages by force if necessary.

Issues like these were clearly a problem, especially as there was an increasing demand for soldiers to serve for lengthy periods, as wars became more drawn out. In practice, many governments discovered that the best way to secure the services of soldiers was not by conscripting men in large numbers, but to recruit volunteers instead, offering pay to those who would serve. Medieval armies came increasingly to rely on professionals, either native recruits, or foreign mercenaries, serving for pay.

Such troops were significantly more reliable than those compelled to provide military service by tenurial or other obligations to lords and kings. Moreover, the professional soldier was far more likely to be better equipped than those compelled to serve: the mass infantry levies of Edward I's armies, for example, often appear

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15 France, *Western Warfare*, p. 128.

16 Ibid., p. 129.

17 Ibid.

18 M. Prestwich, *Armies and Warfare in the Middle Ages: The English Experience* (New Haven and London, 1996), pp. 53, 117.

19 Rogers, *War Cruel and Sharp*, p. 217.

20 C.T. Allmand, *Henry V* (London, 1992), pp. 210–14.

21 Prestwich, *Armies and Warfare*, p. 128.

to have been wretchedly accoutred.[22] There do not appear to have been any such complaints about professional troops; although it is worth noting that, during the fourteenth century, those who fought in the Free Companies in France and Italy were often thought to be quite lightly equipped when compared to other men-at-arms.[23] Professional soldiers were also far more likely to be experienced in war and possess the skills necessary to function effectively in battle. In addition, the professional would serve for as long as his services were required, always providing there was money to pay for him, and even then, as we shall see, this might not prove an obstacle to continued service.

Who were these professional soldiers? They came from a wide variety of backgrounds and enjoyed varying degrees of respectability. Many came from the ranks of the aristocracy, often younger sons or illegitimate children, who had to carve out a career for themselves. In the absence of any landed inheritance many chose a career as a soldier, employing the military skills which formed a key component of a young noble's education. For example, William of Ypres, the mercenary captain who served King Stephen so well during the civil wars in England, was an illegitimate grandson of Count Robert I of Flanders.[24] Seguin de Badefol, the leader of the Great Company in 1363 was the son of a Perigordian lord of some substance, Seguin de Gontaut, lord of Badefol.[25] It has also been noted that the command of many of the Free Companies operating in fourteenth-century France was held by bastards with aristocratic fathers.[26] Similarly, many companies of the so called *Ecorcheurs* in fifteenth-century France were commanded by illegitimate children of the nobility, including the bastard sons of the duke of Bourbon.[27]

If some professional soldiers came from aristocratic backgrounds, the origins of many more were utterly obscure, even of many who rose to positions of some authority. William of Cambrai, a noted leader of mercenaries in the twelfth century, was a former cleric. King John employed numerous mercenary captains whose ancestry is at best uncertain: Lupescar and Martin Algais were both Provencals**,** whilst Falco was an illegitimate son of Norman origins.[28] In the fourteenth century the backgrounds of Sir Robert Salle and John Jouel, both of whom were important captains of Free Companies, remain elusive.[29]

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22 Ibid., pp. 133–4.

23 For the equipment of English mercenary companies in Italy, see J. Temple-Leader and G. Marcotti, *Sir John Hawkwood: The Story of a Condottiere* (London, 1889), p. 38.

24 R.H.C. Davis, *King Stephen 1135–1154* (London, 1977), p. 69.

25 Fowler, *Medieval Mercenaries*, p. 75.

26 Ibid., pp. 10–11.

27 A. Tuetey, *Les Ecorcheurs sous Charles VII: Episodes de l'histoire militaire de la France au XV siecle* (Montbeliard, 1874), pp. 10–12.

28 Contamine, *War in the Middle Ages*, p. 244.

29 Fowler, *Medieval Mercenaries*, pp. 11–12.

What is clear is that there were certain areas of Europe which were particularly fertile recruiting grounds for soldiers. The Low Countries were one of Europe's most densely populated areas in the Middle Ages, and this appears to have encouraged many of its natives to seek employment as soldiers. In the twelfth century, mercenary troops from this area were so common that Brabancon became a generic term for a mercenary: many of the lesser nobility of the area served, probably as cavalry, but the region was also notorious for producing troops of infantry, which were employed with particular success by rulers such as Henry II and Frederick Barbarossa.[30] However, there were other areas of equal prominence, such as Provence in south-eastern France and Aragon, both of which were relatively impoverished areas which also possessed numerous minor noble families. Germany also appears as a source of mercenary troops, serving mostly in Italy.

The use of professional soldiers spread as the duration of wars was extended and the expanding power of the medieval state was better able to pay them. It was in the twelfth century that the use of professional mercenary soldiers first began to be noted on a large scale, although they had undoubtedly been used earlier. Most kings maintained troops of paid household knights but the Angevin kings of England appear to have been the first systematically to employ mercenaries to fulfil their military obligations. Henry II used troops of Brabancons extensively in his French lands and even, on occasion, in England: he particularly relied upon them during the great rebellion against his rule which broke out in 1173–74.[31] Nor was Henry the only ruler to do so, Philip II of France also employed them, as did Frederick Barbarossa who led 1,500 Brabancons into Italy during 1166–67.[32] The use of these mercenaries met with widespread criticism, particularly because of their behaviour towards the church and the civilian population. In 1171, the emperor Frederick Barbarossa and Louis VII of France concluded a treaty which obliged them, and many of their vassals, never to use such mercenaries. Anyone who broke this embargo was to be punished by ecclesiastical sanctions, and force could also be used either by his neighbours, or the emperor, to make him repair any damages.[33] The church, in particular, was vocal in its opposition to the use of such men.

Nevertheless, mercenaries continued to be employed by powers all over Europe during the thirteenth century. They were used most noticeably in Italy, where the city states relied on them particularly heavily. Italian mercenaries were recruited, as were soldiers from most other parts of Europe, especially Germany and Aragon. At the battle of Campaldino in 1289, 500 of the 1,000 knights in the Florentine army were mercenaries. Significantly, it was common in Italy for cities to hire companies of mercenaries, the commanders of which were effectively sub-

30 Contamine, *War in the Middle Ages*, pp. 243–7.

31 W.L. Warren, *Henry II* (London, 1983), pp. 123–36.

32 Contamine, *War in the Middle Ages*, p. 245.

33 Ibid.

contractors: for example, William de la Torre was a Catalan soldier who served the cities of Siena, Florence and Bologna between 1277 and 1292 with companies never larger than 100 men.[34]

One of the few countries in Europe where the use of mercenaries declined in the thirteenth century was England. The terms of the Magna Carta promised that all foreign knights, crossbowmen, serjeants and paid soldiers would be excluded from England, and most did leave after the end of the civil war in 1217. They never returned in large numbers, although Edward I used small numbers in his Welsh wars.[35] Presumably, the political costs John had to pay for his employment of foreign troops served as a warning to others.

In England, it was the demands of the campaigns against Scotland and, more importantly, the Hundred Years War against France, which had the effect of encouraging the development of groups of professional soldiers. In this case, the vast majority of such men were English or Welsh. The need to recruit soldiers and maintain them in the field for long periods led to the development of the indenture system: the crown contracted with the individual captain to recruit specific numbers of soldiers, for set wages, for a specific period of time. The crucial factor in the emergence of a group of professional soldiers was the duration of the conflict. Although individual campaigns may have been brief there was a constant requirement for soldiers, especially to provide garrisons, in France and elsewhere. This meant that, for the first time, it was possible for individuals to become, in effect, career soldiers, professionals who made their livelihood from warfare. This is a phenomenon perhaps most clearly demonstrated during the English occupation of Normandy between 1417 and 1449, which required a regular garrison of somewhere between 2,000 and 5,000 men.[36] Some individuals served for years: for example, Henry Gregory served as a man-at-arms in the company of Sir John Salvain for seven years between 1423 and 1429,[37] whilst John Wilton, an archer, served in Salvain's company from 1423 until at least 1441 and possibly 1448.[38]

Nor was this practice of recruiting professional soldiers restricted to England; their French opponents also recruited professional companies of soldiers, as did the Burgundians. In Italy, wars became almost exclusively the preserve of the professional soldier, first of all the notorious Free Companies and later the condottiere.

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[34] France, *Western Warfare*, pp. 133–4.

[35] Prestwich, *Armies and Warfare*, pp. 153–4.

[36] On this subject, see A. Curry, 'English Armies in the Fifteenth Century', in A. Curry and M. Hughes, *Arms, Armies and Fortifications in the Hundred Years War* (Woodbridge, 1994), pp. 38–68.

[37] For Henry Gregory's service, see Bibliothèque Nationale, Paris, MS. Fr. 25767/48; 25768/114, 387; 25679/478.

[38] For examples of the service performed by the Wiltons, see Bibliothèque Nationale, Paris, MS. Fr. 25767/48; 25768/275; 25770/703; 25771/786; 25775/1357; 25776/1543; 25778/1811.

However, although this recruitment of professionals made sense in military terms, the phenomenon had its drawbacks, most significantly the attitude of professional soldiers to civilians and the church appears to have been predatory to say the least. Soldiers were regarded by most civilians as outsiders, individuals who were to be feared and mistrusted. There was clearly a tendency for soldiers to become alienated from the rest of society, a tendency which was magnified the longer an individual served and which became more exaggerated when he found himself serving far from home.

There is some evidence to suggest that many soldiers had difficulty returning to their old lives and felt a sense of alienation from their old communities. The early fourteenth-century English poem known as *The Outlaws Song of Trailbaston*, tells the tale of an ex-soldier who had become an outlaw to escape imprisonment. The author laments:

> I have served my lord the king in peace and in war
> in Flanders Scotland and his land of Gascony
> but now I do not know how to make any expedient for myself
> all my time I have spent in vain to please such a man.

He has been forced to take to the forest to escape the persecution of unjust judges and neighbours who make false accusations against him.[39] Clearly, recruitment into the army was, for some, a negative experience.

Some professional soldiers did attempt to reintegrate with the rest of society when their period of service was over, usually more senior men who were attempting to safeguard material gains which they may have made. One notorious plunderer and captain of the Free Companies, Sir Robert Knowles, made restitution to some of his victims in 1366, restoring 40,000 gold moutons to Auxerre, and in return receiving papal absolution for his sins. Another English captain, Sir John Harleston, went on pilgrimage to Nazareth in 1366, in penance for his sins whilst serving in the Free Companies.[40] Such individuals clearly felt that their actions as soldiers had placed them, in some sense, outside normal society and action was required if they were to gain acceptance back into the community.

Some soldiers felt a sense of alienation from the rest of society and that feeling was clearly mutual. Professional soldiers were regarded with fear and loathing by more settled members of society, as is reflected by the comments of many contemporary churchmen. In 1179, the papacy tried to prevent mercenary soldiers from receiving a Christian burial, along with Paterine and Cathar heretics:

> and as regards the Brabanters, Arragonese, Navarrese, Biscayans and Coterells,
> who exercise such enormous cruelties against Christians, as not to pay any

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[39] *The Political Songs of England: From the Reign of John to that of Edward III*, ed. T. Wright (London, 1839), pp. 231–6.

[40] Fowler, *Medieval Mercenaries*, pp. 144–6.

> respect to either church or monasteries, or to spare widows or orphans, young or old, or any age or sex, but who, after the manner of pagans, lay waste and ravage in every direction, we do similarly enact.[41]

At the same time the pope sought to excommunicate those who employed such soldiers. In England during the civil wars of Stephen's reign the sources are redolent with the fear with which soldiers were regarded. The Anglo-Saxon chronicle contains some famous descriptions of the impact of war on the country:

> Never did a country endure greater misery, and never did the heathen act more vilely than they did. Contrary to custom they spared neither church nor churchyard, but seized everything of value that was in it and afterwards burned the church and all it contained. They spared not the lands of bishops nor of abbots, nor of priests, but plundered monks and clergy; and every man who could robbed his neighbour. If two or three men came riding towards a village, all the villagers fled for fear of them, believing that they were robbers. The bishops and the clergy were forever cursing them, but that was nothing to them, for they were all excommunicated and forsworn and lost.[42]

This loathing of soldiers was brought about by their behaviour towards civilians and the country in general: they were regarded as criminals and plunderers, who were beyond the normal laws of God and man. The problem was caused, at least in part, by the way in which medieval warfare was conducted. As we have seen warfare was endemic in Europe during the Middle Ages, but decisive results tended to elude the soldiers and those who commanded them. Consequently, much military activity focused on the destruction of the enemies' capacity to continue resistance, the plundering of their lands to deny them resources and, hopefully, force them to submit. Thus, William the Conqueror, when attacking Maine in 1073, devastated the countryside as a prelude to establishing control over the area and sought to terrorise the people into submission.[43] Similarly, Edward III in his invasions of France during the Hundred Years War sought to use plundering and the ravaging of the countryside to achieve specific military goals. Edward wanted to force a decisive battle with the French king which he was confident he could win. The destruction of the countryside was a means of putting pressure on his opponent to bring such an encounter about, undermining the resources available to the enemy. Letters written by those involved in Edward's campaigns contain vivid details of the destructive nature of the fighting: Sir John Wingfield, who was serving in Gascony under Edward, Prince of Wales, wrote in December 1356:

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41 A. McCall, *The Medieval Underworld* (London, 1979), p. 94.

42 *The Anglo-Saxon Chronicle*, ed. and trans. G.N. Garmonsway (London, 1972), pp. 264–5.

43 J. Gillingham, 'William the Bastard at War', in M. Strickland (ed.), *Anglo-Norman Warfare* (Woodbridge, 1992), p. 150.

> And then he went through the lordship of Toulouse and took several good walled towns and burnt and destroyed them, laying waste the surrounding countryside. And then we entered the lordship of Carcassonne and took several good towns before we came to Carcassonne; and he took Carcassonne, which is larger, stronger and finer than York. And all that town and all the other towns in that region were burnt and destroyed.[44]

All this was done whilst on campaign, but there is plenty of evidence to show that soldiers used similar techniques to support themselves when they were not actively engaged in warfare. During the Hundred Years War, French troops who were not currently engaged on operations by the French crown would routinely maintain themselves by pillaging the countryside. The companies of Rodrigo de Villandrando, amongst others, were notorious for this: in December 1432, for example, the men under his command withdrew to their customary winter quarters in the Cevennes, Rodrigo's own company penetrating as far as the Albigeois. They supported themselves during the winter by pillaging the surrounding area.[45] In 1438, Rodrigo was captain of 600 horse and his men were plundering the territories of Charles VII, who was, in theory, his employer. Charles ordered him to desist and attack the English, but Rodrigo refused and fled to Toulouse where he recruited more men, before deigning to mount an attack on English-held Bordeaux. Rodrigo was subsequently pardoned by Charles.[46] Nor was Rodrigo an isolated case: at around the same time in English-occupied Normandy the authorities were plagued by the activities of 'English' soldiers not serving in royal pay who sustained themselves by living off the country. Consistent efforts were made to either recruit such men into the king's service, or send them back to England.[47] Clearly, habits acquired by soldiers during time of war could not simply be abandoned under orders from a higher authority.

The most notorious examples of soldiers refusing to abandon the military life when the war for which they had been recruited was no longer being waged, relate to the Free Companies, which sprang into existence after the Peace of Bretigny in 1359. For soldiers who had become accustomed to fighting in the long-running series of campaigns associated with the first phase of the Hundred Years War the apparently permanent peace settlement between England and France was a disaster. The kings they had formerly served expected them simply to disperse and return to their homes. However, the troops had other ideas, formed themselves into companies and set up in business on their own account. Beginning with the seizure of Pont St-Esprit in December 1360, large parts of France were plunged

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[44] *The Life and Campaigns of the Black Prince*, ed. and trans. R. Barber (Woodbridge, 1997), p. 50.

[45] J. Quicherat, *Rodrigue de Villandrando* (Paris, 1879), p. 85.

[46] *The Chronicles of Enguerrand de Monstrelet*, trans. T. Johnes, vol. 2 (London, 1840), p. 74.

[47] Curry, 'English Armies in the Fifteenth Century', p. 63.

into chaos, as bands of soldiers took control of towns and castles and used them as bases to plunder the surrounding countryside.[48] In other words, they continued to do exactly what princes had previously encouraged them to do, only now their actions placed them firmly outside the law. A particular target was the Avignon papacy, which attempted to organise a crusade against them, but they were undiscriminating towards victims. Wherever there was wealth or plunder to be acquired, companies would be found.

Others who found themselves unemployed by this unwelcome outbreak of peace sought employment elsewhere, where conflict still raged. Most notoriously many former soldiers of the Hundred Years War ended up in Italy, fighting in the quarrels of the Italian states, who were, at least initially, only too happy to hire the services of professional soldiers. The companies were at first employed by the marquis of Montferrat, who needed their help in his war against the Visconti dukes of Milan, but the companies were soon to be found fighting in the service of most of the major Italian powers. The conduct of the soldiers in Italy was just as appalling as it had been in France: when not being paid, and often even if they were, the troops supported themselves by plundering the countryside and such towns as they were able to take by storm or stratagem.[49] Many Italian towns thought it worthwhile to pay bribes to the companies to stay out of their territories and limit the damage they did in that way. However, such inducements naturally served only to encourage the attentions of the companies, who usually came back for more. Siena, for example, paid out heavily to mercenary companies seeking to obtain immunity from attack. In 1364, the city gave 38,650 florins to the mercenary captain Hannekin Baumgarten and his company of the Star; and, in 1375, the English captain Sir John Hawkwood received a bribe of 30,500 florins for himself and his men to secure Siena immunity from attack.[50] There is little evidence to suggest that this bribery was effective in securing safety for the city and it has been demonstrated that the attentions of the mercenary companies was one of the most significant factors behind the economic decline of Siena in the fourteenth and fifteenth centuries.

The behaviour of bands of professional soldiers cannot have been improved by the recruitment of criminals into the ranks, yet there is plenty of evidence to suggest that a significant proportion of soldiers had some sort of 'criminal record'. For example, Richard Holm, a Yorkshireman from Beverley in the East Riding, took up military service in France after killing a man in Coventry in 1359, joined the Free Companies, was captain of a company by 1368, and later fought for the English crown in Poitou in 1372–73, where he was captured. Holm returned to England long enough to be involved in a robbery in 1376, but is last heard of as captain of Oye castle in the Calais Pale in 1380, where he is named as a king's

[48] Fowler, *Medieval Mercenaries*, pp. 28ff.

[49] W. Caffero, *Mercenary Companies and the Decline of Siena* (Baltimore, 1998), chapter 1.

[50] Ibid., pp. 37–8.

esquire.[51] English kings, in particular, appear to have used military service as a means through which pardons for crimes could be obtained, allowing outlaws to re-enter society through good service. The practice is especially noticeable during the reign of Edward III. In 1339–40 at least 850 charters of pardon were granted to men who had served in the wars, and about 260 similar charters were granted in 1360–61.[52] Sometimes these could be for serious offences. In 1358 Walter Dilington of Northumberland received a pardon for murder at the recommendation of Henry Percy, because of his good service at Roxburgh castle.[53] In February 1361, the outlaw William Lovel was pardoned for robbery on account of his good service in the French wars.[54] The overall effect of such measures must have been to introduce into the army an element whose natural tendency towards violent disorder can only have been exaggerated by their involvement in organised fighting. However, some offences were less serious. In February 1421, James Hoget, an esquire of the king, was pardoned his outlawry for debt as he was in the king's service in Normandy.[55]

Commanders sought to impose discipline on their troops, seeking to protect the innocent and also to prevent the danger of disorder undermining the efficiency of their army. Prior to his invasion of England in 1066, William the Conqueror was able to keep his forces under close control and contemporaries were astonished at the way in which the troops paid for their provisions and refrained from pillaging the surrounding countryside.[56] During his Italian campaign of 1158, Frederick Barbarossa established formal regulations for the conduct and discipline of his army. There were rules to punish violence and disorder in the camp. Anyone found guilty of wounding a colleague could be punished by the loss of a hand. Those who caused strife by shouting the rallying cry of the camp without good reason could be expelled from the army; if they were a common soldier they would be flogged, shorn of their hair and branded on the cheek. Frederick also sought to impose regulations to protect merchants travelling to the army with supplies. Soldiers who stole goods or provisions would have to make restitution twofold to the merchant and, if the thief was an ordinary varlet, his hair would be shorn and he would be branded on the cheek. There were also regulations against the theft of church property and the soldiers were forbidden to keep women in camp.[57]

The extent to which such regulations were effective is debatable, as later sets of disciplinary ordinances suggest that similar problems remained common. In 1385,

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[51] Fowler, *Medieval Mercenaries*, p. 19.

[52] H.J. Hewitt, *The Organization of War under Edward III* (Manchester, 1966), p. 30.

[53] *Calendar of Documents relating to Scotland preserved in the Public Record Office, London*, ed. J. Bain (4 vols, Edinburgh, 1881–84), vol. 4, p. 2.

[54] Ibid., pp. 13–14.

[55] *CCR, 1399–1453*, vol. 2, p. 100.

[56] Gillingham, 'William the Bastard at War', pp. 158–9.

[57] Otto of Freising and Rahewin, *The Deeds of Frederick Barbarossa*, ed. C.C. Mierow and R. Emery (Toronto, 1994), pp. 202–4.

as a prelude to his invasion of Scotland, Richard II, acting with the advice of John of Gaunt and the earls of Buckingham and Nottingham, issued a set of disciplinary ordinances which address similar problems to those faced by Barbarossa. Soldiers in the host were to obey the king, or his representatives the constable and the marshal, without question: on pain of penalty on their body and their goods. Order and discipline were to be maintained in the host and no man was to go on a raid on his own initiative. Punishment for so doing was loss of horse and harness. The lands and possessions of the church were specifically protected, as were clergy and women generally. There were also regulations against robbery and pillaging; even foodstuffs for the host were not to be taken, and punishment for these offences was at the discretion of the constable and the marshal.[58] Given the degree of destruction inflicted by this English army on parts of Scotland these ordinances appear to have been widely disregarded. For example, the abbeys of Melrose and Dryburgh were destroyed and Edinburgh was burnt. It was even claimed that the English executed their prisoners, rather than holding them to ransom as was the custom.[59]

The final campaigns of the Hundred Years War saw further attempts to impose discipline on the troops. Henry V and his captains tried to impose minimum standards of behaviour on their soldiers, as a means of protecting the civilian population in those parts of France which accepted the English king's lordship. Henry V's ordinances of war promulgated at Mantes in 1419 were modelled on those of Richard II, but were far more comprehensive and the punishments, potentially, more severe. There were the usual regulations which sought to maintain order and discipline within the army, insisting that watch and ward was kept and that there should be no theft amongst the troops. The church received, once again, special protection: no man was to touch the Holy Sacrament, or the pyx which contained it, on penalty of being hung and drawn; a penalty which was actually imposed on at least one occasion. Churches were not to be robbed, or clergy molested in any way, the penalty, once again, being death. Those who surrendered to the king's authority were not to be pillaged, although by implication those who had not done so were fair game, and the penalty for a breach of this regulation was also death.[60]

Those who commanded English troops in France after Henry V's death, notably John, duke of Bedford, also attempted to impose discipline on their troops through the use of ordinances modelled on those of Henry V, as did their French opponents. In October 1436, Charles VII, in collaboration with the constable de Richemont, issued an ordinance aimed at curbing the behaviour of soldiers: troops were no longer to pillage the countryside and extract *appatis* (forced contributions of money and supplies) from the people. Garrison captains were to maintain the numbers of soldiers they had contracted for and no others, and they were also

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[58] BL, Cotton MS. Nero D, f. 91ff.

[59] A.J. Macdonald, *Border Bloodshed: Scotland, England and France at War, 1369–1403* (East Linton, 2000), pp. 89–90.

[60] *Essential Portions of Nicholas Upton's De Studio Militari, before 1446, translated by John Blount, Fellow of All Souls,* ed. F.P. Barnard (Oxford, 1931), pp. 34ff.

to go to the frontiers to fight the enemy instead of plaguing the subjects of the king. Those who continued to pillage were to be imprisoned and lose their goods. However, this measure clearly had little effect, for in December 1438 a very similar ordinance was issued making captains responsible for the behaviour of the men under their command and continuing to complain about the lawless pillaging carried out by French troops.[61]

The efficacy, or otherwise, of these disciplinary measures is not really important for our purposes. What is interesting is the way in which medieval commanders over the centuries faced similar problems when dealing with the troops under their command. Armies were sources of trouble and disorder and most civilians outside their ranks must have regarded soldiers in a criminal light. The disciplinary ordinances tell us that it was difficult enough to impose order within an army, let alone regulate its behaviour towards civilians. Clearly, there were consistent problems with troops plundering towns and the countryside, with the possessions of the church being particularly vulnerable to attack. Many soldiers appear to have regarded civilians in a predatory manner, using their armed strength to extort whatever they desired from them. Contemporary examples of the brutal way in which soldiers could treat civilians are legion and a few examples will suffice. The Anglo-Saxon Chronicle gives vivid descriptions of the cruelties inflicted on civilians by soldiers during the civil wars of Stephen's reign, including starvation and torture which were usually used to force victims to pay ransoms or reveal the whereabouts of valuables.[62] From a later period, during the winter of 1433–34 in the village of Fernugnac, l'batard d'Apchier, one of the soldiers of Rodrigo de Villandrando used torture to extract the whereabouts of a cache of valuables from a civilian prisoner. A garrotte was tied around his neck and the victim was slowly lowered, face first, into a fire.[63] During a march through the Franche Comte in 1444 on an expedition against the Swiss, those companies of soldiers known, ominously, as the *Ecorcheurs* plundered extensively. Arson, murder and rape were the usual crimes, but, once again, torture was used to secure information about the whereabouts of valuables. Victims had their limbs broken and there were even accusations that some had been crucified.[64] There are also numerous examples of more casual brutality. In 1449, for example, the town of Pont de l'Arche was captured by the French with the assistance of a tavern keeper who had been beaten by some members of the English garrison in a dispute over a bill.[65]

Such stories could easily be multiplied and in the light of them it is hardly surprising that most civilians appear to have lived in dread of companies of soldiers. Sometimes they took extreme actions to defend themselves. In 1437–

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[61] E. Cosneau, *Le Connetable de Richemont (Artur de Bretagne, 1393–1458)* (Paris, 1886), pp. 560–62, 566–7.

[62] *Anglo-Saxon Chronicle*, p. 264.

[63] Quicherat, *Rodrigue de Villandrando*, pp. 100–101.

[64] McCall, *The Medieval Underworld*, pp. 129–30.

[65] *Chronicles of Enguerrand de Monstrelet*, p. 151.

38 great damage was being done in Burgundy by the troops of Guy, bastard of Bourbon. The governor of Burgundy, Jean de Fribourg, led a force of ducal troops to resist the invaders but received little cooperation from the local inhabitants, such was their fear of soldiers in general. Jean de Fribourg and his men were refused entry to Auxonne by the mayor and when they were eventually allowed to pass through the town it was only in parties of twenty men. The parties were escorted by townsmen armed with staves and crossbows, and all roads leading off the main street down which the troops passed were blocked off and guarded by armed townsmen. Fribourg himself went to the hotel of Thibault des Barres to warm himself and take refreshment; he had not been there long before the building was surrounded by armed townsmen who forced the governor to quit the town on foot escorted by the citizens. It was only with difficulty that he managed to get his horses back. Nor was this an isolated example, at about the same time another Burgundian captain, Jacques de Rochefort, could get no cooperation from the town of Nuits de Beaune whose citizens prevented him from entering and denied him food and shelter.[66]

Soldiers were not always the aggressors, preying on innocent civilians. Occasionally, the tables could be turned. At some time in 1434 a man-at-arms and his page lodged with Antoine de St Pol, a peasant from Saint-Just in Burgundy. They were given food and fuel, but no wine. Antoine later claimed that he feared for his wife and child on account of the great robberies committed by soldiers and that, because of this, he and five of his neighbours killed the soldiers with swords and a billhook. The horses of the soldiers were sold in Vienne for nine ecus and they also took the money and possessions of the victims. Was this self-defence or simple murder and theft? Antoine de St Pol and his accomplices received pardon for their offence in 1448.[67]

It is also clear that much of the pillaging and robbery carried out by soldiers was caused by desperation rather than greed. It was possible to make a profit out of war and to rise in status through military service: William of Ypres and William Marshal are two examples from the twelfth century, Sir John Fastolf is the best known instance of an individual who profited from the Hundred Years War, and there are other examples.[68] However, there is also plenty of evidence to suggest that the livelihood of most soldiers was constantly under threat. Wages, though always promised, were not always paid and if war could sometimes provide easy pickings for the soldiers these could be lost equally easily. The best examples of military poverty come from the period of the fourteenth and fifteenth centuries, but were doubtless experienced in earlier centuries also. Jean Petit, a French soldier

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66 Tuetey, *Les Ecorcheurs*, pp. 27–32.

67 Quicherat, *Rodrigue de Villandrando*, pp. 266–9.

68 For William Marshal, see D. Crouch, *William Marshal: Knighthood, War and Chivalry, 1147–1219* (London, 2002); for Sir John Fastolf, see K.B. McFarlane, 'The Investment of Sir John Fastolf's Profits of War', *Transactions of the Royal Historical Society*, 5th series, 7 (1957): 91–116.

who fought in the Hundred Years War, complained to the king that he had served under various captains against the English and other adversaries of the realm. In his years of service he had received no pay or wages, or very little, and had been forced to live off the country, plundering, stealing and holding to ransom those he could capture.[69] The story told by Gilet de Lointreu, who fought in Normandy during the fifteenth century is, frankly, pathetic. Gilet was forced by hard times to become a soldier in 1413 and served for three and a half years: at first he inhabited the neighbourhood of Rouen and lived off the country but he was captured by soldiers of the English garrison of Danville and imprisoned for seven months until he paid a ransom of 81 gold crowns. Whilst in the French garrison of Senonches he existed through the meagre profits of ransoms and on money extorted from nearby villages; there is no mention of any pay. In 1423, he was captured by the English garrison of Verneuil but could not pay the ransom of 81 crowns demanded. After six months in prison he saved himself by taking an oath of loyalty to the English crown and serving in an English company under William Champney. Once again he was captured, this time by the French garrison of Nogent who threatened him with death, and he only saved himself by changing sides yet again, after his English comrades only offered a single silver mark for his ransom. The final twist in the story comes when Gilet was captured yet again, by the English garrison of Verneuil, and was condemned to hang as a traitor.[70] During the period of the Truce of Tours between 1444 and 1449 English soldiers based in Normandy continued to raid French territory, attacking merchants and travellers and raiding houses at night. They were disguised to hide their identity and the impression gained is that they needed to conduct such raids to support themselves.[71] Jean de Bueil, author of *Le Jouvencel*,[72] who served his military apprenticeship during this phase of the Hundred Years War, stressed the absolute poverty of the soldiers in the garrisons in which he served.[73]

There are indications that such problems with plundering and disorder were associated most strongly with companies of professional soldiers. Where such troops were not used to any great extent, fewer problems were encountered. In England, during the fifteenth-century Wars of the Roses, there was relatively little of the plundering and looting that went on in the continental conflicts of the period. This may have been because professional soldiers played a relatively small part in the wars; most soldiers were locals raised by commissions of array and do not seem to have acquired the unsavoury habits associated with long-term service on the

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[69] McCall, *Medieval Underworld*, p. 122.

[70] R.A. Newhall, *The English Conquest of Normandy 1416–1424: A Study in Fifteenth Century Warfare* (Yale, 1924), pp. 309–11.

[71] *Narratives of the Expulsion of the English from Normandy*, ed. J. Stevenson (London, 1863), pp. 255–6.

[72] *Le Jouvencel* is a fifteenth-century war story, based on the author's experiences in the Anglo-French wars of that period.

[73] J. de Bueil, *Le Jouvencel*, ed. C. Favre and L. Lecestre (Paris, 1887), pp. 25, 43.

Continent. Commanders were keen to keep their men under control. In 1470, the earl of Warwick forbade his soldiers to loot and rape, and at the beginning of his 1487 campaign Henry VII published detailed ordinances to protect civilians, as previous kings had done. There were undoubtedly some incidents of troops getting out of control and plundering towns and the countryside, most notably during the campaign of 1460–61, when the Lancastrian army contained many northerners accustomed to the thieving practices of border warfare, but, given the size of some of the forces involved in the fighting, it is surprising that these were not more frequent.[74]

The most severe problems of disorder amongst professional troops were encountered when their services were no longer required. The governments which recruited and paid these men during war usually proved utterly incapable of organising the process of demobilisation. Usually, the authorities limited themselves to paying the troops what was owed to them and hoping that they would somehow disperse to their homes. No doubt many did, but there were others who may have had no homes to go to and who were so used to the military life that they had no idea how to secure their livelihoods in more peaceful ways. These men were a real threat as they were armed, organised and used to getting what they wanted from the civilian population, using whatever means necessary. There were various ways of dealing with such soldiers: first, they could be paid off on the condition that they moved on to another area; secondly, they could be expelled, which usually required some degree of force being used against them; thirdly, they could be found alternative employment, generally the further away the better, which was usually the best option, as there was a reasonable probability that they would not return.

The attempts by Pope Urban V to deal with the menace posed by the Free Companies in the 1360s demonstrated most of the techniques which could be tried. The papacy was particularly threatened by the companies as Avignon was vulnerable and the church possessed little military strength to enable it to defend itself. Naturally, the pope deployed the full range of ecclesiastical sanctions against the offending soldiers. Between 1364 and 1368, a series of Papal Bulls were issued imposing penalties on the companies and those who supported them. The soldiers themselves were called upon to disband and surrender the places they had captured, repairing the damage they had done. Clerics and laymen were forbidden to employ them and those who supplied food or shelter to the companies were excommunicated. Towns which cooperated with the soldiers were placed under an interdict. Members of the companies were to be denied church burial and any churches where mercenaries were buried were to be placed under interdict until the corpses had been removed. Anyone who would fight the companies was granted a plenary indulgence.[75]

In the short term, these measures had little effect and the papacy was forced to adopt other strategies to deal with the threat it faced. On several occasions the

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[74] A. Goodman, *The Wars of the Roses: Military Activity and English Society, 1452–97* (London, 1981), p. 215.

[75] Fowler, *Medieval Mercenaries*, pp. 118–20.

papacy sought to organise a crusade against the companies and also to mobilise local defences against the soldiers. In 1363 the pope even wrote a flattering letter to several captains of the companies suggesting that they go on crusade to the Holy Land. Ultimately, it proved more effective to pay the soldiers to go away. In 1360 the pope paid a sum totalling 100,000 florins to be rid of the companies after the capture of Pont St-Esprit, 30,000 florins paid to the companies themselves and 70,000 to the marquis of Montferrat to hire the soldiers to fight the Visconti. Ironically, the pope himself ended up employing the companies in Italy during 1360–64, in the wars against Benarbo Visconti over the possession of Bologna.[76]

Often threats, negotiations and bribes were inadequate to deal with the mercenaries and direct action was needed. Using military force against companies of professional soldiers was always a risky strategy, as professionals could usually outfight any other sort of force sent against them. However, on occasions those whom the mercenaries exploited could take terrible revenge: for example, several companies of Brabancon mercenaries were massacred by locals in the twelfth century. In 1183, local people in the Auvergne in central France formed an association whose main purpose was to destroy the bands of mercenaries, outlaws and brigands who infested the area. In July 1183, a group of Brabancon mercenaries who had just sacked three monasteries in the neighbourhood of Limoges were defeated and slaughtered at Dun-le-Roi by the local peasants. A few weeks later another band of mercenaries, allegedly over 3,000 strong, was massacred in the same area.[77] The ease with which these groups of soldiers were overcome suggests that, despite the reports of contemporary chroniclers, the numbers in such companies of Brabancons may not have been all that large. However, it was not always so easy to overcome companies of professional soldiers. In 1362, a royal army under Jaques de Bourbon sent by the king of France against the companies was routed at the battle of Brignais, after which the soldiers of the companies grew rich on the ransoms they extracted from the defeated and the plunder they took from the dead.[78] Resistance could be more spontaneous and more effective. In 1445, when the *Ecorcheurs* were returning to France from Switzerland through the Vosges mountains, such was the fear engendered by their presence that the local inhabitants organised an ambush as they went through the mountain passes. Trees, rocks and other debris were rolled down onto the passing troops and many were killed.[79]

Medieval rulers continued to employ bands of professional soldiers despite their atrocious behaviour. The simple fact of the matter was that war could not be conducted without them. They would fight reliably as long as there was money to pay them and a cause to serve. They were also, generally, politically reliable and some rulers chose to rely on foreign professionals rather than their own subjects for military service, because their own subjects could not be trusted. King John

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[76] Ibid., p. 123.

[77] McCall, *Medieval Underworld*, pp. 96–7.

[78] Sumption, *Trial by Fire*, pp. 477–9.

[79] McCall, *Medieval Underworld*, pp. 130–31.

of England relied heavily on his mercenaries to underpin his rule, at a time when he had alienated many of his baronial supporters. Professional troops were also a vital resource for those, such as church leaders, who lacked a large territorial base, or else valued the lives of their own productive citizens too highly to risk them in battle, as in the case of the city states of the Italian peninsula. The problem was, of course, how to guarantee their good behaviour.

The solution adopted by many European governments was to employ troops permanently. Men kept in official pay, it was hoped, would not be obliged to live off the land, and discipline would be more easily maintained. In the short term these hopes were to be disappointed. Nevertheless, the acceptance of responsibility by governments for the support of their soldiers was an important step forward for the maintenance of order. Many Italian states maintained permanent forces of paid cavalry by the early fifteenth century. Venice, for example, maintained a permanent force of 5,000 horse and 2,000 infantry by 1433; numbers which rose to 6,000 horse and 2,000 foot by 1454.[80] Where Italian states led, France and others followed. The Valois monarchy, with France reeling from the effects of the Hundred Years War, began to organise a permanent army in 1445, partly in an attempt to bring troops who had previously lived off the land under control. In that year 15 captains, each commanding companies of 100 lances, were raised and subsequent years saw a steady increase in numbers. By 1479 there were 3,177 lances, led by 35 captains, in pay. By 1482 numbers had risen further and there were over 16,000 soldiers employed in the permanent army.[81]

The appalling behaviour of many professional soldiers thus played a role in the establishment of medieval Europe's first permanent armies. It came to be recognised by several states that a response was needed to the problems caused by unemployed soldiers which was more sophisticated than treating them as criminals and outlaws. Keeping troops permanently in pay gave authorities some hope of being able to discipline them and established some legal control of their activities. This approach was not immediately successful. The complaints about behaviour did not end and the new permanent armies often had a distasteful reputation for brutality which matched that of the Free Companies. The behaviour of the soldiers of the French army during the Italian wars of the late fifteenth and early sixteenth centuries, for example, was infamous. Soldiers continued to plunder and loot the property of civilians and the church, and the Italians compared the French unfavourably to the Turks.[82] However, the problem had been recognised and the first steps had been taken to bring soldiers under more effective government control.

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[80] For the Venetian army, see M.E. Mallett and J.R. Hale, *The Military Organization of a Renaissance State: Venice c. 1400 to 1617* (Cambridge, 1984).

[81] P. Contamine, *Guerre, Etat et Societe a la fin du Moyen Age* (Paris, 1972), p. 283.

[82] R.J. Knecht, *The Rise and Fall of Renaissance France 1483–1610* (London, 1996), p. 54.

Chapter 6
Political Ideology in the Early Stories of Robin Hood

A.J. Pollard

In the later fifteenth and early sixteenth centuries, especially after the development of printing, outlaw stories were widely disseminated. One may reasonably assume that they were, especially the stories of Robin Hood, known by English men and women of all classes who read them, listened to them, or witnessed dramatic performances of them. They were first and foremost ripping yarns, for light-hearted amusement: what we might call popular literature. The narrator introducing the third 'fytte' of the compilation that is known as the 'Gest of Robyn Hode' assures his listeners that they shall have 'good mirth' from the story concerning Little John that he is about to tell.[1] Below the surface, however, these stories – the whole corpus of literature focusing on outlaws who have fled to the forest – have many deeper meanings, the search for which spawned an entire field of interdisciplinary study in the second half of the twentieth century.[2] This chapter concentrates on the political ideology carried by the earliest surviving written versions of the stories of Robin Hood from *c*.1450, especially the 'Gest of Robyn Hode'. The 'Gest' is a compilation of five manuscript stories, elements of which may date from the early fifteenth century, which was first printed in 1492. There were at least three other stories about the outlaw hero circulating in written form by the end of the century.[3] Although other late medieval outlaw ballads have survived, notably 'Adam Bell, Clim of the Clough and William of Cloudesly' and 'Gamelyn', stories of Robin Hood were overwhelmingly the most widely distributed and best known.[4] While the

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[1] *Rymes of Robyn Hood: An Introduction to the English Outlaw*, ed. R.B. Dobson and J. Taylor (3rd edn, Stroud, 1997), p. 89.

[2] For which, see the successive forewords and original introduction to *Rymes of Robyn Hood* published in 1976, 1989 and 1997, pp. xii–xxxvi and 1–64, and A.J. Pollard, *Imagining Robin Hood: The Late-Medieval Stories in Historical Context* (Abingdon, 2004). J.C. Holt, *Robin Hood* (2nd edn, London, 1989) is the most comprehensive enquiry into the legend and the man in the later Middle Ages.

[3] 'Robin Hood and the Monk', 'Robin Hood and the Potter' and 'Robin Hood and Guy of Gisborne', in *Rymes of Robyn Hood*, pp. 113–22, 123–32, 140–46.

[4] 'Adam Bell, Clim of the Clough and William of Cloudesly', hereafter referred to as 'William of Cloudesly' dates from the early sixteenth century and is in *Rymes of Robyn Hood*, pp. 258–73; Gamelyn, dating from the late fourteenth century, is to be found in *The*

Robin Hood stories were enjoyed by those of gentle rank, they were, as the record of dramatic performance shows, essentially the entertainment of the commons. The outlook encapsulated in them throws light on popular political ideas at the end of the Middle Ages.

The political and social meaning of Robin Hood stories has been the subject of intense debate. In the mid-twentieth century controversy focused on whether the outlaw ballad was an expression of peasant discontent. In a seminal article published in 1958, Rodney Hilton argued that Robin Hood was conceived as a free peasant representing peasant ideology for a peasant audience. The stories were an expression of class consciousness in feudal society.[5] This view was elaborated by Eric Hobsbawm in 1970. In *Bandits* he identified Robin Hood as the archetype of one of his three types, 'the noble robber'. Robin Hood, the most famous and popular type of bandit, Hobsbawm argued, is what all peasant bandits should be. Displaying total solidarity with the peasantry, he is the righter of wrongs, the restorer of justice and the champion of social equity. Among the common attributes are his taking from the rich to give to the poor, his refusal to kill except in self-defence and just revenge, the admiration in which he is held by his people, his invisibility and invulnerability until his death by betrayal, and his unswerving loyalty to the king but relentless opposition to those who misgovern and oppress in the king's name. It is important to stress that the noble robber is not in conflict with the fount of justice, which is incorruptible, but only with those who pervert justice. And this is recognised by the ruler who pardons him and takes him into his service. Robin Hood, the noble robber, is not therefore a social revolutionary, rather he seeks restorative justice, the re-establishment of things as they used to be and ought to be. Thus he 'represents an extremely primitive form of social protest, perhaps the most primitive there is'. He does not abolish oppression, but he does demonstrate that poor men need not be passive, helpless or meek.[6]

This was a view strenuously countered by Sir James Holt. The ballads of Robin Hood, as with other outlaw ballads came from the households of the gentry. In so far as they expressed resistance to authority they reflected the resentments of the landed against the crown.[7] Both these diametrically opposed views shared the assumption that the stories spoke to us about the thirteenth and early fourteenth

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Complete Works of Geoffrey Chaucer, ed. W.W. Skeat (2nd edn, 6 vols, Oxford, 1900), vol. 4, pp. 645–67. A version in modernised English is in *Medieval Outlaws: Ten Tales in Modern English*, ed. S. Knight and T.H. Ohlgren (Stroud, 1998), pp. 168–86. The plots are summarised in Pollard, *Imagining Robin Hood*, pp. 13–14.

[5] R.H. Hilton, 'The Origins of Robin Hood', *Past and Present*, 14 (1958): 30–44; reprinted in R.H. Hilton (ed.), *Peasants, Knights and Heretics: Studies in Medieval English History* (Cambridge, 1976). See also M. Keen, 'Robin Hood – Peasant or Gentleman', *Past and Present*, 19 (1961): 7–15, and in *Peasants, Knights and Heretics*, pp. 258–66.

[6] E.J. Hobsbawm, *Bandits* (Harmondsworth, 1970), pp. 13–15, 34–5, 44–8.

[7] J.C. Holt, 'The Origins and Audience of the Ballads of Robin Hood', *Past and Present*, 18 (1960): 89–110, and *Peasants, Knights and Heretics*, pp. 236–57; J.C. Holt,

centuries, the period in which they were broadly set. While it is true that many details of the stories and the action – concerning outlaw bands, poaching, the corruption of justice and the acquisitiveness of religious houses – point to such a setting, the fact is that the stories that we have in writing date from the fifteenth century. They almost certainly include a wealth of historical memory, perhaps even oral tradition, but in the form in which the earliest surviving versions were set down they were read, heard or watched by men and women of the late fifteenth century.[8] The audience for the first versions of the stories we have was not an audience to whom the social and political tensions of the thirteenth and early fourteenth centuries were any longer relevant. It was itself no more, in the strict sense of the word, 'peasant'; and it was not, in its higher social reaches, preoccupied with conflict with the crown over rights to the forest or the authority of sheriffs.[9]

Yet that audience did span the social order. In the earliest versions the stories are addressed both to good yeomen and to gentlemen of freeborn blood. We have little knowledge of who bought the printed 'Gest of Robyn Hode' in the early sixteenth century, though they needed to be of some means.[10] Many parishioners in pre-Reformation England, however, 'played' Robin Hood, collecting money for charity perhaps by holding people in sport for ransom. Sometimes, as at Willenhall in 1498, such sport turned ugly and led to violent disorder, but usually, as at Croscombe in Somerset, it was part of the annual cycle of peaceful parochial fund-raising organised by the church wardens. In these 'disguisings' the roles of Robin Hood and his merry men were played out by local men who knew the stories to their neighbours who also knew them. At Croscombe, Robin Hood was, as it were, adopted as a local worthy.[11] But members of the Paston family in Norfolk were also familiar with the stories. Sir John Paston hired a man to perform Robin Hood for his entertainment; a fragment of what is probably the script he used has survived. By the beginning of Henry VIII's reign disguisings as Robin Hood were even entertainment fit for a king.[12]

Robin Hood (1st edn, London, 1982), pp. 118–24, 128–43, and reinforced in his 1989 postscript, p. 197.

[8] Pollard, *Imagining Robin Hood*, pp. 184–204.

[9] Ibid., pp. 16–26.

[10] Richard Calle, the Paston bailiff and grocer of Framlingham, a man who would have liked to have been taken for a gentleman, may well have been the owner of the surviving manuscript copy of 'Robin Hood and the Potter'. See T. Ohlgren, 'Richard Call, the Pastons, and the Manuscript Context of Robin Hood and the Potter (Cambridge, University Library Ee.4.35.1)', *Nottingham Medieval Studies*, 45 (2001): 210–32.

[11] Holt, *Robin Hood* (1989), pp. 148–9; Pollard, *Imagining Robin Hood*, pp. 169–70, 174–5; J. Marshall, '"Comyth in Robyn Hode": Paying and Playing the Outlaw at Croscombe', *Leeds Studies in English*, 32 (2001): 345–68.

[12] J. Marshall, '"goon in-to Bernysdale": The Trail of the Paston Robin Hood Play', *Leeds Studies in English*, 29 (1998): 185–217; *Rymes of Robyn Hood*, p. 42 (Henry VIII), and pp. 203–205 for the text of the play.

There was, however, one particular social stratum to which the stories of Robin Hood particularly spoke: those that we might call the middling sort, who had emerged as a distinctive element in English society by the late fifteenth century. English rural society below the level of gentility was not composed of one homogeneous mass of common people. During the preceding century, following the Black Death and catastrophic population decline, there occurred a general rise in the living standards of those who were skilled labourers in regular employment, tenant farmers, artisans and craftsmen. Paradoxically the per capita wealth of English people increased while national income declined. As the fifteenth century progressed, right through recession in mid-century, the disposable income of ordinary men and women grew. This is shown in improved housing, a growth in horse ownership, an increase in the consumption of meat, dairy products and ale, the acquisition of decencies such as brass and pewter vessels, and more time spent simply in leisure. There was widespread amelioration as the benefits of a redistribution of income spread down the social order. New definitions were adopted for that social order, and given legal form by the Statute of Additions of 1413. Men below the level of gentleman were to identify themselves in any legal transaction as yeoman, or husbandman, or labourer or by their craft. The stratification was not in itself new, but it is clear from the end of the fourteenth century that a recognisably modern occupational structure existed in town and countryside. The greatest beneficiaries of this change were what came to be called 'the middling sorts' who acquired some assets and began to enjoy modest prosperity: yeomen, substantial husbandmen, self-employed craftsmen, small-scale tradesmen, shipmen, brokers, clothiers, fullers and weavers.[13]

People such as these had a voice in the affairs of the realm. They were the leaders of their communities; many of them enjoyed the parliamentary franchise and several served as church wardens, bailiffs, constables, local jurors and tax collectors. Some, as representatives of small boroughs, even sat in the house of commons. The forty-shilling franchise in the counties, in place since 1430, encompassed a widely based electorate. These were the persons on whom crown, lords and church relied to transmit their views, rally support, enforce common and customary law locally, and collect taxes. They were increasingly literate, in English, if not in the Latin used by the clerical and intellectual elite. Governments wooed them by bills, by manifestos, through pulpits and by display. They admired Henry V, especially his aggressive foreign policy and more effective enforcement of law and order. They were prepared to pay heavy taxes to provide for the effective defence of the realm. By the same token, however, they were critical of governments that wasted taxation in futile wars, abused power and failed to

[13] R.H. Britnell, *The Commercialisation of English Society, 1000–1500* (2nd edn, Manchester, 1996), pp. 155–237; C.C. Dyer, *Making a Living in the Middle Ages: The People of Britain, 850–1520* (New Haven, 2002), pp. 265–365; C.C. Dyer, *An Age of Transition? Economy and Society in England in the Later Middle Ages* (Oxford, 2005); A.J. Pollard, *Late Medieval England, 1399–1509* (Harlow, 2000), pp. 181–6, 188–90.

maintain order. They were accustomed to using the procedure of parliamentary petition to seek amends and to air social and economic grievances. Moreover, they mediated and articulated a public opinion and political awareness which extended through oral and ritual culture to labourers, servants and the unskilled in urban and rural societies. It is a mistake to assume that there was no popular, in the sense of non-elite, participation in fifteenth-century politics. On the contrary, ordinary men, and to some extent women, were continuously, if in various degrees of immediacy, engaged in politics.[14]

The status of Robin Hood and his merry men as yeomen is crucial to the identification of the stories with this particular social world. Robin is not a gentleman. But he is not a peasant**,** or a labourer either. He is between the social grades. The 'in-between' is a much contested area. The word 'yeoman' had different meanings in the fifteenth century. It was used both to describe a specific rank in the households of the gentry and above, and to describe a social gradation in rural society between the armigerous and the tillers of the soil. Both these meanings are to be found in the Gest. But Robin and all his men are something altogether more precise than the generalised representation of a particular intermediate status group or a middle-ranking household officer. They are figured as a particular type of yeoman – a yeoman of the forest, or a forester. Foresters in late medieval England were both household officers out of doors and of the middling sort in the local communities in which they resided. As a forester, Robin Hood knows the codes and skills of 'woodcraft' (forestry) appropriate to a 'handicraft' man and is also familiar with the gentlemanly code of 'venery' (hunting). All these skills he puts to good effect in the stories by poaching, by preparing feasts for his 'guests' and by escaping from the blundering sheriff of Nottingham.[15] He is also a 'strenuous' yeoman, who exercises great prowess in combat, for foresters were believed to make some of the best soldiers, especially archers, in English armies. And Robin, the archetypal yeoman forester, was counted the best shot in all Merry England.[16] He was a man such as the forester buried under a stone

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[14] Pollard, *Imagining Robin Hood*, pp. 177–82; Pollard, *Late-Medieval England*, pp. 253–5; I.M.W. Harvey, 'Was there Popular Politics in Fifteenth-Century England', in R.H. Britnell and A.J. Pollard (eds), *The McFarlane Legacy* (Stroud, 1995); E.H. Shagan, *Popular Politics and the English Reformation* (Cambridge, 2003), pp. 1–25; R.B. Goheen, 'Peasant Politics? Village Community and the Crown in Fifteenth Century England', *American Historical Review*, 96 (1991): 42–62; C.C. Dyer, 'The Political Life of the Fifteenth-Century English Village', and J.L. Watts, 'The Pressure of the Public on Later Medieval Politics', in L.S. Clark and M.C. Carpenter (eds), *The Fifteenth Century, IV*: *Political Culture in Late-Medieval Britain* (Woodbridge, 2004), pp. 135–58, 159–73.

[15] R. Almond and A.J. Pollard, 'The Yeomanry of Robin Hood and Social Terminology in Fifteenth-Century England', *Past and Present*, 170 (2001): 52–77; Pollard, *Imagining Robin Hood*, pp. 42–56.

[16] Pollard, *Imagining Robin Hood*, pp. 45, 98–9, 141; A. Ayton, 'Military Service and the Development of the Robin Hood Legend in the Fourteenth Century', *Nottingham Medieval Studies*, 36 (1992): 126–47, esp. 146; K. DeVries, 'Longbow Archery and the

slab carved with a sword, arrow, shield and hunting horn in the surviving north transept of the Praemonstratensian abbey of Blanchland, no doubt an employee of the abbot whose practice of hunting the visitor, Bishop Redman of St Asaph, sought to stop in the late fifteenth century.[17] As a member of a local community, such as Blanchland and everywhere in England where there were forests, before he was outlawed and took to the greenwood, Robin Hood would have been one of the parochial elite, enjoying an income from his office which, according to Sir John Fortescue, at the equivalent to a fee of £5 a year, was a fair living for a yeoman.[18] His vocation and his income placed him as a figure not just intermediary but straddling the worlds of the gentry and non-gentry. This is one reason why it was possible to hang on him adventures of different sorts that appealed to one or the other, or sometimes both audiences: both gentle and non-gentle could relate to him. Nevertheless, he is quintessentially of the middling sort, whether defined in terms of household rank or social status. He is representative of them.

The Robin Hood and his men of the stories are familiar with the workings of royal government. As Mark Ormrod has demonstrated, they engage through the normal channels with the crown. They are familiar with the royal seal, which they instantly recognise when the king reveals himself to them; they know the procedures for petitioning the crown, especially petitioning for pardon. The stories presume an awareness in the audience of the way in which the crown communicates with its officers; in the story of 'Robin Hood and the Monk' the action depends on Little John intercepting and turning such communication against an adversary. The merry men are imagined as part of a 'reading community', a world of 'pragmatic' literacy, whose members participate in the military, administrative, judicial and fiscal administration of the state.[19] This is the world of manorial and parochial office-holders, church wardens, jurors and constables – the stalwart worthies on whom local government depended.

Yet Robin Hood and his men are criminals and outlaws. They defy the king and his officers, especially the sheriff of Nottingham. Their principal act of defiance is poaching the king's deer, but they are also highwaymen. They do not rob the rich to give to the poor. Rather they rob the undeserving and help the deserving, of whatever social rank. At the heart of the 'Gest' is the story of how the outlaws help an honourable but impoverished knight against the acquisitive abbot of St Mary's and

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Earliest Robin Hood Legends', in T. Hahn (ed.), *Robin Hood in Popular Culture: Violence, Transgression, and Justice* (Cambridge, 2000), pp. 53–4; *Rymes of Robyn Hood*, p. 110.

[17] G.W.O. Addleshaw, *Blanchland: A Short History* (Sunderland, 1951), p. 8.

[18] Sir J. Fortescue, *On the Laws and Governance of England*, ed. S.J. Lockwood (Cambridge, 1997), p. 119.

[19] W.M. Ormrod, 'Robin Hood and Public Record: The Authority of Writing in the Medieval Outlaw Tradition', in R. Evans et al. (eds), *Medieval Cultural Studies: Essays in Honour of Stephen Knight* (Cardiff, 2006), pp. 57–74, esp. p. 69; Watts, 'Pressure of Public', pp. 164–7. For discussion of the awareness of Robin Hood beyond this 'reading community', see Pollard, *Imagining Robin Hood*, pp. 176–7.

his accomplice the chief justice. While they honour the king as the fount of justice, they do not respect his corrupt officers, especially the sheriff of Nottingham. They are also violent. They kill without remorse, even innocent boys. In some stories the sheriff is humiliated; in others he is brutally murdered.[20] Running through the different stories are two common strands. First, and paradoxically, Robin Hood is the outlaw who stands for true justice. He is a thief and murderer who upholds the law. He was, the 'Gest' declares in its last lines, 'a good outlaw'.[21] Secondly, he does not hesitate to use violence, extreme and bloody violence, in the cause of true justice. Just as violence was justified in the enforcement of the law, so righteous violence in the stories is justified in resistance to injustice. In the inverted world of Robin Hood, violent defence of justice by an outlaw is not just taken for granted but is celebrated.

We have, then, a scenario in which highly respectable, worthy people of some substance, often engaged in the lower levels of royal administration, take delight in stories in which the hero, a man of their sort, defies the crown. One reconciliation of this paradox is to argue that the ultimate readmission of outlaws to the king's grace reinforces the rule of law. The pardon of the outlaws by a king who sees that they are truly loyal and who reveal to him how his corrupt officers have perverted the course of justice, represents the restoration of good government and renewal of the social order as it should be. This is reinforced in the stories by the manner in which the outlaws are not just pardoned but actually taken into the king's service. Not only is society reformed, but the reformed order is guaranteed by its true defenders being welcomed at court. In this way the outlaw stories can be interpreted as affirming the rule of law, the political order and royal authority. They end, it has been argued, with a 'resounding restoration of the status quo'.[22]

However, if one relates this to the record of popular uprising and the rhetoric of revolt in the second half of the fifteenth century a different interpretation suggests itself. First, there is the manner in which these self same middling sorts took the lead in recurring popular violent protest against the crown in demanding reform in the name of the commonweal. To understand them we must first penetrate beyond the rhetoric of hostile commentators and chroniclers who persisted in presenting such demonstrators as worthless. In the conventional establishment view, 'the people' have no understanding of political issues, are easily swayed and seek only to indulge in mindless looting and destruction. This view was expressed in the *Somnium Vigilantis* ('A Dream of Vigilance') drawn up (possibly by Sir John Fortescue) to justify the condemnation of the Yorkist lords for treason at the Coventry parliament in 1459. It addressed six claims attributed to the lords, including one that they enjoyed the favour of the people. This is peremptorily dismissed; the people are for the most part full of 'opinionable conceits, and not

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[20] Pollard, *Imagining Robin Hood*, pp. 96–8, 105–108.

[21] *Rymes of Robyn Hood*, p. 112.

[22] A. Musson and W.M. Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke, 1999), pp. 169–70; Ormrod, 'Robin Hood and Public Record', p. 70.

of truth'. Do they (the lords) really argue that the people favour them, therefore they be good? Everyone knows of the 'great variableness of the people and of the uncertitude of their opinions'.[23] The 'people' are fickle and ignorant. It was the line taken vividly by the London merchant who was the author of 'Gregory's Chronicle' in his account of Cade's revolt of 1450. The commons of Kent, he reported, 'made a field, well ditched and staked about, as it had been in a land of war, save only [the way in which] they kept order among them, for as good was Jack Robin as John at the Noke, for all were as high as pigs feet'.[24] They were the scum of the earth. Later, when they returned and attacked London, looted and murdered citizens, in his self-righteous outrage the author knew 'not what [to] name it for the multitude of riff raff', which acted as men 'that had been half beside their wit'.[25] It is a view that has been expressed down the centuries and has commonly coloured the reporting of direct action and mass demonstration.

It is in fact a gross misrepresentation of the character of direct action in fifteenth-century England. Far from being riff-raff, the leaders and large numbers of the participants in these movements were drawn, as the records of prosecutions, enquiries and pardons reveal, from the ranks of the same substantial villagers, manorial and parish office-holders, jurors and constables.[26] They were the very people who had gained most from economic and social amelioration. Yet, even though they had the most to lose, they also led their communities in protest against government action when they had no other resort. Just as in happier times they stood by the crown, so in less happy they articulated grievances and led protest in defence of a proper order of society that they believed to be threatened by bad government. In times of stress and government failure, as had happened in the late fourteenth century and happened again in the mid-fifteenth century, when 'representative hierarchy' failed, direct action in defence of the common weal was believed to be justified. In their own eyes they represented the 'true commons'.[27]

The familiarity with parliamentary process of those who were as high as pig's feet is shown in the first of the manifestos they drew up in 1450. Clause 8 complained about collectors of the fifteenth, clause 13 complained that the people of Kent did not enjoy free election in choosing knights of the shire, 'but letters been sent from divers estates to the great rulers of all the country, the which embrace their tenants

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[23] J.P. Gilson, 'A Defence of the Proscription of the Yorkists in 1459', *EHR*, 26 (1911): 521.

[24] *The Historical Collections of a London Citizen in the Fifteenth Century*, ed. J. Gairdner (Camden Society, n.s., 17, 1876), p. 190.

[25] Ibid., p. 191.

[26] For the most recent consideration of this, see Dyer, 'Political Life', pp. 148–9.

[27] M.L. Bush, 'The Risings of the Commons in England, 1381–1549', in J. Denton (ed.), *Orders and Hierarchies in Late Medieval and Renaissance Europe* (Manchester, 1999), pp. 109–89; I.M.W. Harvey, *Cade's Rebellion of 1450* (Oxford, 1991), pp. 192–7; Watts, 'Pressure of the Public', pp. 159–80; G. Dodd, 'A Parliament Full of Rats? *Piers Plowman* and the Good Parliament of 1376', *Historical Research*, 79 (2006): 41–7.

and other people by force to chose other persons than the common will is'. Self-evidently this is a complaint of the enfranchised, the forty-shilling freeholders. They also objected to the manner in which the chosen knights of the shire had in effect 'now late' sold the office of collector of subsidy to their own profit.[28] The list of complaints drawn up at Blackheath, now in Magdalen College, reveals a clear awareness of constitutional theory, asserting that the king was not above his laws, as his coronation oath confirmed, and that he could not tax his subjects at will without the consent of parliament.[29] These are people with a sophisticated grasp of politics, fully cognisant with political processes, who customarily participated in politics as suitors at law, taxpayers and parliamentary electors.

This point was acknowledged by the hostile author of the *English Chronicle* (completed after 1461), who commented that Cade 'showed unto them the articles of their petitions concerning and touching the mischiefs and misgovernance of the realm, in the which articles was nothing contained but that was rightful and reasonable, whereof a copy was sent to the parliament held that time at Westminster'.[30] Thus Cade and his demonstrators presented themselves as petitioners in much the same way as public protestors continued thereafter to do through to the Chartists and Suffragists.[31] They believed in a right to public protest. The fact that such interest was shown in the articles of petition they produced, and that several copies have survived, one being sent to Sir John Fastolf, suggests, the author of 'Gregory's Chronicle' notwithstanding, that there was not only some sympathy for their ends, but some understanding of their means.[32]

Those who led direct action in Kent, Sussex and neighbouring counties in 1459–61, in 1469–71 and again in 1497 came from the same backgrounds and shared the same outlook as the rebels of 1450. It should occasion no surprise, therefore, to discover that men who had served as church wardens at Croscombe in Somerset, and played Robin Hood in May Games, came out with the Western rebels in June 1497. John Halse and Roger Morris, the church wardens in 1481–82, jointly led the Robin Hood revels that year and raised just over £2. Halse, who died in 1500–1501 leaving bequests to the Our Lady, the Rood and the bells, was fined £4 for his participation in the rising. Morris, his fellow, an altogether more successful man, began his career as a fuller, but so prospered that he became a clothier and was buried in 1519 in the chancel of the church. He was fined the substantial sum of £20 for his involvement in 1497. John Carter, church warden in 1486–87 and again in 1513–14 was another local clothier who was fined £23; and

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[28] *The Politics of Fifteenth Century England: John Vale's Book*, ed. M.L. Kekewich et al. (Stroud, 1995), pp. 204–205.

[29] Harvey, *Cade's Rebellion*, p. 189.

[30] *An English Chronicle 1377–1461*, ed. W. Marx (Woodbridge, 2003), p. 68. The author was sympathetic to the house of York.

[31] See also R.W. Hoyle, 'Petitioning as Popular Politics in Early-Sixteenth Century England', *Historical Research*, 75 (2002): 365–89.

[32] Harvey, *Cade's Rebellion*, p. 104.

his son John, warden of the Young Men, £4. And finally John Stevyn, alias Sadler, warden three times in 1537–38, 1542–43 and 1544–45, and who played Robin Hood in 1511–12, was also fined in 1497, when presumably still a very young man. There may well have been others, not only at well-documented Croscombe, who had or were to play Robin Hood**,** implicated in the rising, for the church wardens' accounts do not always identify who the player was.[33]

Moreover, it is highly likely that those who rose in rebellion in Croscombe in 1497, and elsewhere on other occasions, were largely the same as those who formed the local militias of 'fencible' men, trained and practised in the use of arms and raised by their elected constables of hundred and parish for the defence of the realm. There was a well-established and familiar system whereby these communally elected men of modest means were responsible for ensuring that local persons of military age were regularly mustered and reviewed and, in response to commissions of array, for calling them out in emergencies. Those fit for military service were expected to provide their own equipment, primarily as archers, exceptionally as men-at-arms, according to their means and at their own expense. They were for the most part, therefore, drawn from the ranks of the substantial husbandmen, yeomanry and mere 'gentlemen'. In Bridport in 1457, 180 men were mustered, of whom 120 had their own 'harness', including salet and jack (helmet and protective jacket) and one a full suit of plate armour.[34] There was thus, county by county, a force of semi-trained and armed men, no doubt including many foresters, ready to be mobilised by their local constables.

While the militia was designed for the defence of England against its enemies, the system of array was used in the second half of the fifteenth century to raise men to protest in arms, loyally they insisted, against the misgovernment of evil ministers around the king. Cade's Revolt, it has been shown, was mobilised by constables calling out fencible men.[35] Accounts of Fauconberg's Rising in 1471 suggest that the practice was repeated then. Warkworth tells how Sir George Broke and the bastard of Fauconberg, with the help of other gentlemen, raised up all Kent. Their host of 'good men [goodmen, men of worth and some substance] well harnessed [armed]' was more than 20,000 strong.[36] The *Arrivall* added that many

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[33] Marshall, 'Comyth in Robyn Hode', *passim*, and private communication from Ian Arthurson, who generously provided me with details of villagers of Croscombe fined in the aftermath of the rebellions of 1497. For Robin Hood games elsewhere in Somerset, see K.L. French, *The People of the Parish: Community Life in a Late Medieval English Diocese* (Philadelphia, 2001), esp. p. 131.

[34] A.E. Goodman, *The Wars of the Roses: The Soldier's Experience* (Stroud, 2005), pp. 91–2; A. Goodman, *The Wars of the Roses: Military Activity and English Society, 1452–97* (London, 1981), pp. 143–4; M. Bohna, 'Armed Force and Civic Legitimacy in Jack Cade's Revolt, 1450', *EHR*, 118 (2003): 572–6, 581–2.

[35] Bohna, 'Armed Force', *passim*.

[36] *A Chronicle of the First Thirteen Years of the Reign of King Edward the Fourth, by John Warkworth D.D.*, ed. J.O. Halliwell (Camden Society, first series, 10, London, 1839), p. 42.

of those raised were unwilling conscripts, for the able, if they had array and would not come out, were compelled to lend their equipment to others, and the unable, such as had no harness, or were too old to serve, were made to send waged men in their place. The fact that pardons were subsequently granted to 79 men, ranked variously as esquires, gentlemen, yeomen, husbandmen and artisans and identified by the hundred in which they lived, powerfully reinforces the impression that Fauconberg, as self-styled captain of Kent, used the system of array to mobilise the militia. As in Cade's Revolt two decades earlier, some of the yeomen and husbandmen may have been the constables themselves.[37]

The maintenance of the shooting skills of all able-bodied men who provided the militia was a matter of continuing concern to the crown until late in the sixteenth century, even when handguns had virtually replaced bows. Not surprisingly, there was a tradition of linking statutory archery practice with contests and displays. In some places these were associated with Robin Hood games, for the yeomen outlaws Robin Hood, William of Cloudesly and their fellows were fabulously skilled at archery, not only in shooting deer, but also in matches.[38] In Chagford and the Exeter parish of St John in Devon, special arrows, some of silver, were treasured as trophies for the winner of an annual shooting contest. Richard Robinson in 1583 recalled of his Oxfordshire/Berkshire youth in the reign of Queen Mary:

> A May game was of Robyn Hood and of his train that time
> To train up young men, striplings and each younge childe
> In shooting, yearly this with solepmne feast was by Guilde
> Of brotherhood of Townsmen done, with sport, with joy, with love.[39]

We can take the nostalgia for the good old days of Merry England with a pinch of salt, but should note the link specifically drawn by Robinson between the militia, training in archery and the fictional hero.

The bearing of arms in fifteenth-century England, at gentry and sub-gentry level, was itself perceived as conferring a political voice; and if all else failed the use of force to assert that voice was sanctioned. Just as kings, nobles and

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[37] *Historie of the Arrivall of Edward IV, in England and the Finall Recouerye of His Kingdomes from Henry VI. A.D. M.CCCC.LXXI.*, ed. J. Bruce (Camden Society, first series, 1, London, 1838), p. 33, which puts the number at 16–17,000 men; *CPR, 1467–77*, pp. 299–303; C.F. Richmond, 'Fauconberg's Rising of May 1471', *EHR*, 85 (1970): 684–5; Bohna, 'Armed Force', 577–8. The *Arrivall* represents this host of 'goodmen' as riotous, motivated by 'great rancour and malice, thinking to 'rob and spoil', who 'came for robbing (rather) than for revenging by way of battle'; these 'mischievous men' were called 'his soldiers'.

[38] One feat was splitting the wand, the peg that held the target. Robin performs this trick before the king in disguise at 50 paces. Cloudesly outperforms him from 400 paces. He then, like William Tell, shoots an apple balanced on the head of his seven-year-old son from 120 paces (*Rymes of Robyn Hood*, pp. 107–108, 271–2).

[39] J.L. Singman, *Robin Hood*: *The Shaping of a Legend* (Westport, CT, 1998), p. 93.

gentry could claim the right to use violence to make good their rights and secure justice, so also, claimed the commons, could they.[40] There was, therefore, an inextricable link between political engagement, the bearing of arms and direct action. Moreover, parochial and village worthies shared a political ideology with the landed classes: the concept of the common weal, the common good, or *res publica*. An old notion, that the kingdom should be governed for the benefit of all, this became more widely deployed, and in English, during the fifteenth century. It was specifically invoked in protest against misgovernment in the mid-fifteenth century. Cade, it was later reported, said that:

> he and his company were gathered and assembled for to redress and reform the wrongs that were done in the realm, and to withstand the malice of them that were destroyers of the common profit, and for to correct and amend the defaults of them that were the king's chief counsellors.[41]

The author of 'Gregory's Chronicle' was outraged that such a rabble could claim to act for the common good: 'in that furnish [manner] they went, as they said, for the common weal of the realm of England'.[42] The commons nevertheless insisted that they were the true subjects of the crown, acting in the king's best interest against his evil councillors who were perverting justice or overburdening the people. As the Kentish protestors expressed it in 1450, 'They … call us risers and traitors and the king's enemis, but we shall be found his true liege men and his best friends with the help of Jesu, to whom we cry daily and nightly.'[43] When the earl of Warwick sought to raise the same commons in 1459, the first article of his proclamation declared that 'the common weal and good politic laws here before notably and virtuously used' had been 'piteously overturned'. The same refrain was repeated in 1460, and ten years later when Warwick next rose against Edward IV.[44] The local elders and notables, the leaders of village society, to whom Warwick pitched his appeal in these years, and such as played Robin Hood at Croscombe, espoused a deep concern for the common weal and the impartial administration of justice.

However, there was a significant contrast between the outcome of popular protest in arms and the climax of outlaw stories. In the harsh, real world of popular protest and uprising, unfortunately, rulers were not magnanimous: village Robin

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[40] See, for instance, P.C. Maddern, *Violence and Social Order: East Anglia, 1422–1442* (Oxford, 1992), pp. 1–74, and C. Valente, *The Theory and Practice of Revolt in Medieval England* (Aldershot, 2003), *passim*, in which it is argued that armed rebellion by nobles was an integral part of normal political action.

[41] *English Chronicle*, p. 68.

[42] *Historical Collections*, p. 191

[43] Harvey, *Cade's Rebellion*, p. 189.

[44] *John Vale's Book*, pp. 208–15, 218–21.

Hoods were either hanged by the neck, or, as in 1497, 'hanged by the purse'.[45] The crown never negotiated with insurgents. Its position was made absolutely clear in the *Somnium Vigilantis*. Against the claim that it was reasonable and worshipful to take up arms ('to expose oneself to great jeopardy of goods and life') to 'intend the common wealth of the realm', the crown argued at length that the principal guarantee of the common weal was and could only be due obedience to the sovereign and his laws. Only the king could ensure that the realm was governed according to the common good and not for private interest. Moreover the recent rebellion – and rebellion it was in the crown's view – had set out not to procure the common good, but to subvert it. The lords had but pretended reformation of wrongs and extortions. And even if the public good of the realm had in any way been neglected, what authority had they to reform it without the king's commission?[46] If this applied to great lords, what hope had the commons unaided of convincing the crown?

In the outlaw stories, however, the king recognises the righteousness of the cause of those who are resisting him. He finds them not to be false traitors, but his true lieges and friends. The climax is the hero's pardon, his restoration to his property, promotion and a welcome at court. In 'Gamelyn', the tale of a dispossessed gentleman who takes to the woods as an outlaw, the hero is vindicated, and recovers his inheritance. This plot line was borrowed for the modern version of the story of Robin Hood in which Robin Hood is in reality Sir Robin of Locksley and is restored by the king. William of Cloudesly, a yeoman like Robin Hood, operating with his accomplices Adam Bell and Clim of the Clough in Inglewood forest, decides to sue for a pardon. He and his fellow outlaws go in person to 'our kyng / to get us a charter of peace'.[47] They present themselves on bended knee and beg his mercy. The king initially threatens to hang them; he accedes only after Cloudesly has demonstrated his amazing skill as an archer. The king is so impressed that he forthwith makes him his bowbearer and the chief riding forester of his northern forests with the wage of 18 pence a day, and retains him as 'a gentleman of clothing and of fee', promoted thereby from mere yeoman. His fellow outlaws are made yeomen of the chamber; his son taken into service in the household office of the cellar, with the promise of promotion when he comes of age, and his wife is made chief gentlewoman of the royal nursery. The yeomen, not surprisingly, thank the king 'full courteously', join the royal household and live prosperously for many years, 'good men' all three. [48] Unlike Robin Hood, Cloudesly is a family man. He

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[45] The phrase was used by Robert Fabyan, author of the Great Chronicle of London, about the aftermath of Fauconberg's rising in 1471: 'such as were rich were hanged by the purse, and the other that were needy were hanged by the necks' (*The Great Chronicle of London*, ed. A.H. Thomas and I.D Thornley (London, 1938), p. 220).

[46] Gilson, 'Defence', 515, 518–20.

[47] *Rymes of Robyn Hood*, p. 269.

[48] Ibid., pp. 272–3. The bowbearer carried the king's bow when he was out hunting; the chief riding forester was a senior forest official. The reward was far more generous than

is raised socially from the rank of yeoman to the gentry, and by implication to the status of an esquire of the body. In his story, upward social mobility is celebrated. Its denouement shows how by his prowess as an archer a man can rise in the world. And that is all that Cloudesly, his family and his associates want: promotion. They have made it and live happily ever after.

Whereas Gamelyn is born and restored to gentility and Cloudesly achieves gentility, Robin Hood refuses to have gentility thrust upon him. He and his men do not go up to the king in London to seek a pardon; the king comes down to the country to bring him to justice. He spends a futile half-year searching for the elusive outlaw, before he is persuaded to disguise himself as an abbot to flush him out. This duly happens, and eventually the king reveals his true identity. Robin and his men promptly fall to their knees and plead for his mercy. The king, who has had a chance to observe their true loyalty and goodness, immediately offers to take them into his service: Robin and seven score and three of his men as well. To mark the reconciliation the king and his escort don the outlaws' livery of Lincoln Green for a day: but thereafter the outlaws take the king's fee and return with him to his court.[49] If this were the end of the story it would impart the same message as that of William of Cloudesly. But it is not and does not.

Even in the narration of Robin's encounter with the king there is an implication that he is not merely a subject seeking and receiving a pardon. He does not initiate the procedure. His declaration to the king in disguise that he loves no man as well as he does his king is a somewhat guarded acknowledgement of his sovereignty. Once the king has pardoned Robin, he invites, not commands, Robin and all his men to serve in his household. Robin accepts, with a proviso,

> But me lyke well your servyse,
> I wyll come agayne full soone,
> And shote at the donne dere,
> As I am wonte to do.[50]

This is a remarkable stanza. They are not the words of a subject humbly submitting to his king's authority. No pardon could be conditional; no outlaw could negotiate the terms of royal grace. It was absolute. The sense of Robin exercising a degree of equality with the king is also found in the extraordinary end to the story of 'Robin Hood and the Monk' in which the king, who hears that Little John prefers to serve Robin rather than be a yeoman of the crown, accedes, albeit with an ill grace,

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the usual wages for these offices. The audience would have been fully aware of how well they did.

[49] *Rymes of Robyn Hood*, pp. 107–10. The exchange of livery described in stanzas 418–22 was a customary sign of high favour shown to a subject.

[50] Ibid., p. 109, stanza 417.

that his first loyalty is to Robin rather than to him.[51] Robin Hood, the king of the outlaws, rules a separate greenwood realm.

It perhaps follows, therefore, that Robin Hood does indeed withdraw from court when he likes it not. There is no happy ending here. The denouement of the 'Gest' is worth consideration in detail. The sojourn of Robin and his seven score and three men at court proves expensive (Robin spends over £100 in fifteen months) and all but two of his men, Little John and Will Scarlock, forsake him. Seeing 'yonge men' shooting one day reminds him that his 'welthe is went away' and that he was once the best archer in England. He has reached a point that if he stays longer with the king 'sorowe will me sloo'. The court, its expense, its wastefulness and its idleness is not for him. He must return to the greenwood. He persuades the king to allow him to go on a short visit to a hermitage dedicated to St Mary Magdalen in Barnsdale. Once there, however, he reveals his hand; he immediately shoots at the 'donne [dun] deer', as he had threatened, and blows upon his horn. All the outlaws, all seven score of them, flock to him, doff their hats and welcome back their master on bended knee. He is home where he belongs. For all the king's authority he will not submit again. For 22 years he lives his old life as an outlaw, poaching the king's deer, robbing travellers, assisting the deserving and administering his own justice, until finally he is betrayed by the prioress of Kirklees and murdered.[52]

A royal pardon and household office had opened the door to social advancement and prosperity for Cloudesly and his associates; for Robin Hood it resulted in emasculation, loss of honour and deep depression. There lies in this a reflection of the conventional critique of the court deriving from Walter Map, but there is also a deeper political message.[53] On one level, therefore, Robin's pardon, restoration and entry to the court, promise to confirm the social and political order. To this extent the stories reflect the late medieval tradition of loyal protest designed to help the king put right the wrongs conventionally declared to have been executed in his name without his knowledge by unworthy courtiers. They give expression to a tradition of protest against a corrupt government in defence of the social order and a society of orders in which, in this fiction, 'sooth segging' (truth speaking), is rewarded.

But Robin Hood ultimately rejects this course. His recidivism suggests a far more radical stance, for he ultimately defies the authority of the king. The greenwood offers an alternative social order, and an alternative 'popular' law. In this respect the sheriff of Nottingham, who loyally serves his king in seeking to bring the outlaws to justice, is *not* the personification of the king's evil minister,

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[51] Ibid., p. 122.

[52] Ibid., pp. 109–12. 'Yonge men' was an alternative and earlier form of 'yeomen'. See Pollard, *Imagining Robin Hood*, p. 33.

[53] R.E. Horrox, 'Caterpillars of the Commonwealth? Courtiers in Late Medieval England', in R.E. Archer and S.K. Walker (eds), *Rulers and Ruled in Late-Medieval England: Essays Presented to Gerald Harriss* (London, 1995), pp. 1–2.

but the representative of his constituted authority.[54] The Robin Hood who is true to himself is deeply distrustful of the exercise of power, and of people in power. He is not unlike Raphael Hythlodaeus, Thomas More's proponent of Utopia, who, adapting St Augustine, commented, 'when I consider and turn over in my mind the state of all commonwealths flourishing anywhere today, so help me God, I can see nothing else than a kind of conspiracy of the rich, who are aiming at their own interests under the name and title of commonwealth'.[55] Robin Hood's greenwood kingdom is thus a place where the impossible can happen; it is a paradigm of society as it should be. In this reading, contrary to Hobsbawm, Robin Hood, the archetypal social bandit, is a social revolutionary envisaging an idealisation of anarchy as an alternative to monarchy.[56]

This discussion has implications for the 'new constitutional history', which came to the fore in the study of the later Middle Ages at the end of the twentieth century. Dissatisfaction was then expressed at the manner in which political historians focused on a politics without ideology with an emphasis on the workings of patronage, interest groups and the pursuit of power. Renewed attention has as a consequence been paid to the language of politics, the underlying concepts and assumptions of those politically engaged and of the institutional framework, especially the law, which encapsulated this. The focus of this revision has been on the world of the gentry and aristocracy; on 'high politics', as it were.[57] Less attention has been paid to the place in the new constitutional history to those below the level of gentry. It is not as if the study of popular politics has been ignored. It is now recognised that the commons were not excluded from politics in the fifteenth century. While the engagement of lower social groups is a recognised feature, the tendency has nevertheless been to focus either on what pressure this public politics placed on the ruling elite and government, or on the internal workings of village politics.[58] Missing has been a consideration of how the commons themselves perceived their own place in the political world.

The view that the commons were excluded was the view of the ruling elites themselves. As Bishop Russell pondered in 1483, remembering the disturbances

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[54] For further discussion of the characterisation and significance of the sheriff of Nottingham in the stories, see my 'Robin Hood, Sherwood Forest and the Sheriff of Nottingham', *Nottingham Medieval Studies*, 52 (2008): 113–30.

[55] Thomas More, *Utopia*, ed. E. Surtz (New Haven, 1964), p. 148.

[56] Above, p. 112. See also C.F. Richmond, 'An Outlaw and Some Peasants: The Possible Significance of Robin Hood', *Nottingham Medieval Studies*, 37 (1993): 99–101, in which the greenwood is characterised as a forlorn dream of an alternative society.

[57] M.C. Carpenter, 'Political and Constitutional History: Before and After McFarlane', in *The McFarlane Legacy*, pp. 188–98; Carpenter, 'Introduction', in *Fifteenth Century IV*, pp. 8–12 and references therein.

[58] Watts, 'Pressure of the Public', pp. 172–9; Dyer, 'Village Politics', *passim*.

of the recent past, the people stood afar.[59] They had no part to play. They may do their bit in local administration, but their role was to do as they were instructed. Their representation was virtual, determined by their place in a representational hierarchy. Any kind of direct action or demonstration was condemned. The real crime of those who took direct action, always characterised in governing circles as participating in uprisings and rebellion, was not that they were violent, but that they protested at all. No right of the commons to demonstrate, peaceably or violently, was recognised.

But the commons thought otherwise. They contested the passive role allotted to them. They asserted their right to be a part of political society and to amend matters when they had gone wrong. The crown may have insisted that it alone could guarantee the common good: the language of protest reveals that the commons believed that they also had a right to act in its defence. The *Somnium Vigilantis* is unintentionally revealing in this respect. It reasserts the prevailing doctrine, asserted repeatedly by apologists for monarchy in the fifteenth century, that insisted upon the overriding and unlimited authority of the crown; that nothing but obedience to the king could be justified.[60] But it protests too much. It is evident, from the length and care of the rebuttal of the claim made by the Yorkist lords, that popular support justified their taking up of arms against the king's evil ministers, that there was an alternative, popular perception of the roots of authority in the realm that this rebuttal was anxious to denounce. Why else reiterate the conventional disparagement of the capacity of the commons to understand and grasp political issues? Their claim to have a voice was perceived as a real threat. There were, it would seem, competing class-based ideologies, in which an appeal to the right to take direct action in the name of the common weal challenged the absolutist claim of the apologists for monarchy. In one discourse monarchy itself is never challenged: the king is always represented as having been misled by evil or corrupt ministers. But in another, direct action to make amends could be founded on the perception of an alternative 'popular' authority.

In what ways does this play in the outlaw stories? The first observation is that they endorse, indeed celebrate, direct action. The whole point is that the outlaws take the law into their own hands and they defy in the name of the king his own officers, his corrupt ministers, and mock or kill them.[61] Nevertheless, their true

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[59] S.B. Chrimes, *English Constitutional Ideas of the Fifteenth Century* (Cambridge, 1936), p. 172.

[60] J.L. Watts, 'Ideas, Principles and Politics', in A.J. Pollard (ed.), *The Wars of the Roses* (1995), pp. 128–9.

[61] For the argument that the valorisation of direct action in the stories is rooted in a conflict between a tradition of localised, communal, rough justice and centralising, formal, royal justice, see W.M. Ormrod, 'Law in the Landscape: Criminality, Outlawry and Regional Identity in Late Medieval England', in A. Musson (ed.), *Boundaries of the Law: Geography, Gender and Jurisdiction in Medieval and Early Modern Europe* (Aldershot, 2005), p. 13.

loyalty is eventually recognised; they are taken into the king's service. This has led to the interpretation that these outlaws were essentially conservative and affirmative of the prevailing ideology. Such an interpretation can be challenged on two levels. As we have seen, the crown did not in practice recognise the legitimacy of direct action. The very fact that the stories endorse it, in the face of the known refusal of any government to condone it, is itself subversive. Whether it is William of Cloudesly or Robin Hood, the stories validate the popular belief that direct, violent, action, in the name of the common good was legitimate. In this respect they implicitly counter the assertions of the *Somnium Vigilantis*.

Secondly, it is by no means clear that the stories in their conclusions do in fact offer restorative justice: the re-establishment of things as they used to be and ought to be. The story of William of Cloudesly is ideologically light. He and his companions are outlawed for poaching the king's venison. The centre point of the action is his dramatic rescue from Carlisle, in which the king's judge, the sheriff, the mayor of Carlisle and at least 300 others are killed.[62] It is their martial arts that commend them to the king and lead him to overlook their crimes. And their martial arts win them not just a pardon but handsome reward, favour at court and prosperous lives. These heroes are ruthless and unabashed social climbers. Indeed, the story's underlying assumptions seem roundly to endorse ruthless, self-centred, careerism – just that aspect of fifteenth-century political culture which the new constitutional history challenged.

At first sight, the Robin Hood stories seem more promising. The reconciliation with the king does introduce the possibility of restorative justice. But this does not happen. In the denouement of the 'Gest of Robyn Hode' lies a rejection of the established order. Robin Hood's renewed defiance of the king and return to the greenwood implies that he stands for an alternative, utopian, view of what the social order could be. We cannot know whether those who rose in arms in defence of the common weal shared that dream of an ideal order. What we do know is that they were politically well-informed and engaged, and were prepared from time to time to risk life and property in what they declared to be loyal opposition to the crown. It is not inconceivable, however, that they were also sustained by the hope of a better world emerging from their actions; a better world without the king which was closer to the ideal which found its expression in the 'Gest of Robyn Hode'. Was Jerusalem after all lurking there in that green and pleasant wood?

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62 *Rymes of Robyn Hood*, p. 271.

Chapter 7
Poachers and Gamekeepers: Four Fifteenth-Century West Country Criminals

Hannes Kleineke

The role of the late medieval English gentry, not only in the enforcement of the king's laws, but also in their subversion, is a theme that has long been a staple of historiography. Yet, since the mid-twentieth century the emphasis that historians have placed on the gentry as lawbreakers has shifted. Whereas according to an older view the unlawful activities of the ruling elites represented above all a threat to public order,[1] more recent scholarship has reinterpreted aristocratic lawbreaking as an accepted, if not legitimate, means of driving conflicts within the community to a resolution.[2] The evidence for the lawlessness of the gentry, it has been argued, is unreliable and prone to overstate the purported victims' cases. This view is hard to dispute: the major sources for gentry crime are weighted heavily towards the accusation levelled by one party against another, while defendants' responses to such charges are less regularly, and verdicts even more rarely, recorded. Nevertheless, there has been some attempt to qualify this position. Not all evidence for aristocratic lawlessness, it is suggested, was of necessity biased; a qualitative analysis of legal records may enable the historian to discern a core of truth in the more outlandish accusations, which stand out from the mass of formulaic indictments by virtue of their colour and circumstantial detail; and certain crimes, such as that of murder, were not beyond positive proof.[3] At the same time, it has been recognised that there were regions where crime was the norm, rather than

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[1] For this pessimistic older view, see for example, C. Plummer (ed.), *The Governance of England* (Oxford, 1885), pp. 24–5; E.F. Jacob, *The Fifteenth Century* (Oxford, 1961; repr. 1993), pp. 127–8, 491, but also more recently J.R. Lander, *Government and Community* (Cambridge, MA, 1980), p. 40.

[2] E. Powell, *Kingship, Law and Society: Criminal Justice in the Reign of Henry V* (Oxford, 1989), pp. 97–107; C.E. Moreton, *The Townshends and their World* (Oxford, 1992), p. 112; P. Maddern, *Violence and Social Order: East Anglia, 1422–42* (Oxford, 1992), pp. 4–6, 14–19.

[3] S.J. Payling, 'Murder, Motive and Punishment in Fifteenth-Century England: Two Gentry Case-Studies', *EHR*, 113 (1998): 1–17, at 18.

the exception. These were often areas remote from the seat of royal authority at Westminster where the king's writ nominally ran, but where the enforcement of his laws was absolutely dependent on the power of local men, frequently the very individuals responsible for many of the breaches of the law they were charged with preventing.[4]

One such 'frontier' region was the far south-west of England, where peculiar socio-economic circumstances combined with an inability of the crown to back its nominal authority up with tangible power to make breaches of the law a feature of everyday life, rather than an exception. The two principal industries of the county of Cornwall, the shipping trade and the mining of tin, not only provided conspicuous (and portable) wealth, but also generated a body of hardened and – in the case of the shipping industry – often battle-trained men at the lower levels of society, upon which their social betters might draw in the violent pursuit of their own ends.[5] At the same time, Cornwall's geographic situation on the south-western outskirts of the realm made direct rule by successive late medieval monarchs difficult. The crown might most readily have channelled its authority through the structures of the duchy of Cornwall, the single greatest landowner in the county, but during the long periods of the late fourteenth and fifteenth centuries when the duchy was vested in the person of the reigning monarch it conspicuously failed to do so.[6] It is nevertheless instructive to note that scholars have identified some degree of success in the coherent management of the far south-west not only in the period of

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[4] J. Gray, 'Lawlessness on the Frontier: The Anglo-Scottish Borderlands in the Fourteenth to the Sixteenth Century', *History and Anthropology*, 12 (2001): 381–408; C.J. Neville, 'Keeping the Peace on the Northern Marches in the Later Middle Ages', *EHR*, 109 (1994): 1–25, esp. 20–21; C.J. Neville, 'Gaol Delivery in the Border Counties, 1439–1459: Some Preliminary Observations', *Northern History*, 19 (1983): 45–60; H. Summerson, 'Crime and Society in Medieval Cumberland', *Transactions of the Cumberland and Westmorland Antiquarian and Archaeological Society*, n.s., 82 (1982): 111–24; H. Summerson, 'Carlisle and the English West March in the Later Middle Ages', in A.J. Pollard (ed.), *The North of England in the Age of Richard III* (Stroud, 1996), pp. 89–113; C.D. Ross, *Edward IV* (London, 1974), p. 407; H. Kleineke, 'Why the West was Wild', in L. Clark (ed.), *The Fifteenth Century III: Authority and Subversion* (Woodbridge, 2003), pp. 75–93; C.L. Kingsford, 'West Country Piracy: The School of English Seamen', in C.L. Kingsford, *Prejudice and Promise in Fifteenth Century England* (London, 1962), pp. 78–106; *A Calendar of Early Chancery Proceedings Relating to West Country Shipping 1388–1493*, ed. D.M. Gardiner (Devon and Cornwall Record Society, n.s., 21, 1976), pp. xi–xviii; C.J. Tyldesley, 'The Crown and the Local Communities in Devon and Cornwall from 1377 to 1422' (Exeter University PhD thesis, 1979), pp. 20–21; M. Cherry, 'The Struggle for Power in Mid-Fifteenth Century Devonshire', in R.A. Griffiths (ed.), *Patronage, the Crown and the Provinces in Later Medieval England* (Gloucester, 1981), pp. 123–44, at p. 123.

[5] Kleineke, 'Why the West was Wild', pp. 80–83.

[6] Note, for instance the – as has been argued – rather more successful use of the duchy of Lancaster during Henry VI's minority: H. Castor, *The King, the Crown and the Duchy of Lancaster* (Oxford, 2000), pp. 25–50.

Prince Henry's tenure of the duchy in the first decade of the fifteenth century, but also in the periods of conciliar rule, respectively on behalf of Prince Edward and Prince Arthur, in the later 1470s, the early 1480s and the 1490s.[7] The duchy aside, all the magnates of baronial or higher rank who held substantial estates in Cornwall and might have taken a leading role in its governance normally resided outside the county. The crown thus had to call upon the gentry members of the county community to enforce its authority, and, in the absence of any one individual of sufficient power to control his neighbours single-handedly, had to turn a blind eye to the transgressions of many of those charged with the enforcement of the law.[8] Nor, it has been suggested, did these poachers whom the king's patent turned gamekeepers perceive their position as anomalous: the distinction between the enforcement of the law as a means of serving public justice and as a means of promoting private interests was blurred, and the role of the king's officers was not perceived as being a purely public one by either the officers themselves or their neighbours.[9] By inference, an officer might not only use his position in the pursuit of his private interests, but any of his official acts was open to be interpreted as private high-handedness and consequently to be challenged at law.

Yet even among the 'licensed malefactors' of the south-west there were differences of degree: some men might become guilty of just a single opportunist crime, whereas others were in almost permanent conflict with the law. Some committed merely minor offences, while others became guilty of crimes conspicuous for their brutality or dramatic circumstances. Four case studies may serve to illustrate these differences in the degree to which a man might combine a public career with flagrant breaches of the law. What the individuals examined had in common was their social status as members of the landed gentry of Cornwall. They were men who played their part in local and national government by holding office in their locality, serving as royal commissioners and justices of the peace, or – at least – by sitting among the commons in parliament as burgesses or even knights of the shire. Nevertheless, in economic terms, the differences between them were substantial. One was a gentleman of modest income, while the second claimed to be able to command more than the £40 of annual income thought necessary to sustain a knight. The third was among the wealthiest landowners in Cornwall, while the fourth was the younger son of a baron, but of limited economic resources. Equally, their criminal careers were qualitatively different. One was accused of a series of often petty offences, but also found himself in court on more serious charges of counterfeiting, coin clipping and even murder, while the career of the second was distinguished by a series of instances of extreme and gratuitous brutality. The third man was in all but continuous conflict with the law

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[7] J. Hatcher, *Rural Economy and Society in the Duchy of Cornwall, 1300–1500* (Cambridge, 1970), p. 7; M. Hicks, *Edward V* (Stroud, 2003), pp. 88–9.

[8] Kleineke, 'Why the West was Wild', pp. 89–90.

[9] C. Carpenter, 'Law, Justice and Landowners in Late Medieval England', *Law and History Review*, 1 (1983): 205–37, at 218.

over the course of a career spanning more than 30 years and the reigns of five kings, while the last was only charged with a single instance of criminal behaviour, but one which stood out by its unusual nature. Naturally, the four examples have been selected on the grounds that their careers were in some respects exceptional, and consequently of interest, but although the details of some of the offences of which they were accused stand out, in broader terms their careers are nevertheless representative of their class as a whole, and serve to illustrate some of the spectrum of late medieval south-western aristocratic crime.

It would be otiose to recite here the complexities of the sources that provide evidence for the criminal careers of late medieval Englishmen, above all the records of the royal law courts. The problems that the interpretation of this material presents have been discussed at some length by other scholars, and need not be treated here in any detail. It is nevertheless worth reminding ourselves of the courts' requirement that the claims, counterclaims and evidence brought before them be cast in a uniform format and language, and as English law evolved the required formality increasingly acquired a primacy over the factual accuracy of what was pleaded. Thus, some of the details of a case might be exaggerated or understated to justify bringing a particular suit in a particular court or under the terms of a particular statute, ordinance or custom.[10] Arguably, the more unusual claims pleaded in court, which stand out from the mass of formulaic accusations by the circumstantial detail they provide, may be the most credible. Equally, there is rather less reason to doubt the veracity of charges of maiming by the amputation of digits and limbs, which an accuser could easily prove in court, and an inquest over the killing of a man was at least based on the irrefutable evidence of a corpse.[11]

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The wealthiest members of the Cornish gentry had no monopoly on criminal activity. Lesser gentlemen, too, might seek to improve their fortunes and settle their

[10] See, for example, Carpenter, 'Law, Justice and Landowners', 207–9; Maddern, *Violence and Social Order*, pp. 27–31, 237; C. Carpenter, *Locality and Polity* (Cambridge, 1992), pp. 705–9; J.H. Baker (ed.), *Legal Records and the Historian* (London, 1978), p. 3; J.S. Cockburn, 'Trial by the Book? Fact and Theory in the Criminal Process 1558–1625', in ibid., pp. 60–79; P. Tucker, 'Historians' Expectations of the Medieval Legal Records', in A. Musson (ed.), *Expectations of the Law in the Middle Ages* (Woodbridge, 1991), pp. 191–202; T.S. Haskett, 'The Presentation of Cases in Medieval Chancery Bills', in W.M. Gordon (ed.), *Legal History in the Making* (London, 1991), pp. 11–28; T.S. Haskett, 'Country Lawyers?: The Composition of English Chancery Bills', in P. Birks (ed.), *The Life of the Law* (London, 1993), pp. 9–23.

[11] But note Carrie Smith's comments on the problems inherent in the use of medieval coroners' inquests: C. Smith, 'Medieval Coroners' Rolls: Legal Fiction or Historical Fact?', in D.S. Dunn (ed.), *Courts, Counties and the Capital in the Later Middle Ages* (Stroud, 1996), pp. 93–115.

disputes by unlawful means, and two such men were Adam Vivian and Richard Tregoys.[12] Vivian came from an old Cornish family from the far south-west of the county, but it is impossible to be sure about his economic circumstances, as it is uncertain whether he ever inherited any ancestral lands, and he was survived by his father-in-law, whose estates might otherwise have fallen to him in the right of his wife. Nevertheless, Vivian was certainly the least prosperous of the quartet of south-western criminals with whom we are concerned here. In 1387 Vivian's father had forfeited his property as an indicted felon, and it is intriguing to speculate whether it was this experience that set the son on the path of crime. Little more than a decade after his father's forfeiture, on Easter Sunday 1398, Vivian was said to have murdered one John Nicoll at Bodmin, and to be 'a common disturber of the peace'.[13] Vivian successfully petitioned for a royal pardon, claiming that he had been indicted only by the malice of his enemies, but the incident returned to haunt him a few years later.[14] Although military service in Henry V's French wars in 1420 in the retinue of William, Lord Botreaux, apparently gave him an aura of respectability and may have accounted for his return to parliament as a burgess for Helston in 1421, he may have set out for France precisely to escape the consequences of his actions, or, if his earlier claim is to be believed, the malice of his enemies. On several occasions in the first two decades of the fifteenth century Vivian was summoned into the court of king's bench to answer for various felonies, and in January 1421 an inquiry before the Cornish justices of the peace had heard a whole catalogue of offences that he was thought to have committed in the preceding five years. A number of these crimes were said to have taken place at night, and several involved the taking of grain and livestock in the vicinity of Vivian's principal residence at Headon (in Jacobstowe) in north-eastern Cornwall, but he was also charged with having stolen jewels and silver plate belonging to John Treffridowe and his widowed mother, Joan, from their house at Treffridowe in August 1420, and with the night-time theft of the substantial sum of £19 in money from the residence of John Bobriball at Melcombe (in Lankinhorne) in early December of that year. More damagingly, a second inquiry on 1 April 1421 heard Vivian charged with the capital offences of counterfeiting and coin clipping. Yet, three years earlier Vivian had once again procured a royal pardon, which he now pleaded with respect to his offences committed before May 1418, and on 22 March 1423 a Launceston jury cleared him of all remaining accusations.[15] Vivian then disappears from the records. It is possible that in his final years the protection of influential patrons like his father-in-law, Stephen Trenewith, one of the county

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[12] For published details of the careers of Vivian and Tregoys, see J. S. Roskell, L. Clark and C. Rawcliffe (eds), *The History of Parliament: The Commons 1386–1421* (4 vols, Stroud, 1992), vol. 4, pp. 720–21; Kleineke, 'Why the West was Wild', pp. 83–8.

[13] TNA, SC 8/252/12559.

[14] Curiously enough, a later indictment dated the murder to Easter Sunday 1407, suggesting that the charge was indeed trumped up: TNA, KB 27/646, rex rot. 14.

[15] TNA, KB 27/646, rex rot. 14.

coroners, and Lord Botreaux allowed him to lead a quiet life. He represented Helston in parliament a second time in 1429, but held no other office and evidently died not long after.[16]

Somewhat wealthier than Vivian was Richard Tregoys, variously said to draw an annual income of £10 or £20, although he himself claimed to have annual revenues of 100 marks at his disposal.[17] Unlike his father John, who had been a county coroner, undersheriff and parliamentary burgess for four different Cornish boroughs on at least six separate occasions, Richard held only occasional office as a royal commissioner and bailiff to the steward of the duchy of Cornwall, Thomas Courtenay, earl of Devon, but he secured election to parliament both as a burgess for Bodmin and a knight of the shire for his native county. Tregoys's early career, like that of Vivian, was overshadowed by his father's misfortune, in that John Tregoys was murdered by an armed gang in 1406, leaving his son and heir a minor.[18] As in Vivian's case, it is tempting to make a connection with his early forays into violent crime: as early as September 1423 Richard Tregoys was bound over to keep the peace towards one Isabel Hamely,[19] and less than a year later, on Ash Wednesday 1424, a clash with the landowner Simon Killygrew led to the maiming of one of the latter's servants. That same autumn Tregoys seized one Reynold Bugules at St Michael's Mount, and dragged him by the feet for 40 paces, and the following August he clashed with the lawyer Roger Wolley at Lostwithiel in an altercation which saw daggers drawn. By this date, Tregoys presumably already maintained the armed retinue (variously said by his victims to number between 140 and 220 men), with which he terrorised the local tin-mining community and those associated with it intermittently over more than two decades from 1427 to 1448. This campaign of harrassment, designed to give Tregoys and his closer associates (who included Adam Vivian's son Odo) greater control over the tin industry in Tregoys's native parish of St Columb Major and an increased share of its revenues, was accompanied by a string of criminal acts of conspicuous brutality.[20] In August 1428 at Trenwith (in St Ives) he maimed the lawyer John Polreden by cutting three fingers off his right hand, and that December he and his men set upon the tinner William Grigge at Lanivet and broke his arms and legs. In November 1433, Sir John Arundell of Trerice, a powerful Cornish landowner and justice of the peace, had to intervene as Tregoys was preparing to cut off the nose and ears of another lawyer, Richard Gay, for his audacity in attempting to serve a writ of *sub poena* on him.[21] The following month, Tregoys and his men

16 *The Commons 1386–1421*, vol. 4, pp. 720–21.

17 TNA, E 179/87/92; C 1/17/407B; C 1/45/108.

18 *The Commons 1386–1421*, vol. 4, pp. 643–4.

19 TNA, E 159/205, *recorda* Hilary rots. 4d–4d[B]; E 159/215, *recorda* Michaelmas rot. 19; E 159/228, *recorda* Easter, rots. 25–25d.

20 For the economic background to Tregoys's criminal activity, see Kleineke, 'Why the West was Wild', *passim*.

21 TNA, KB 27/729, rex rot. 1.

dragged Peter Carthu, a minor landowner from Mitchell, from the house of his kinsman, the rector of Blisland, took him to Bofarnel in St Winnow, tied him to a ladder and persuaded him to pay a ransom of 200 marks for his release with a threat of immediate castration by one of Tregoys's servants brandishing 'a certain great knife'.[22]

Time and time again the authorities tried and failed to deal with Tregoys through the channels of the common law. In July 1427, he was arrested by the greatest of the Cornish gentry, Sir John Arundell of Lanherne, only to break free and rejoin 30 of his men standing by in a side street; and, the following year, an attempt to arrest him made by the sheriff of Cornwall, Sir Thomas Arundell of Tolverne, was equally unsuccessful. A powerful commission of oyer and terminer appointed in February 1429 succeeded in extracting sureties for future good behaviour from Tregoys, but he had soon returned to his lawless ways, and further commissions appointed in December 1433 and September 1434 were probably never executed.[23] Meanwhile, Tregoys's enemies had united and at the autumn sessions of the peace the Cornish bench heard a range of extraordinary presentments, including claims that, on four separate occasions between December 1428 and October 1431, he had been guilty of the carnal rape of a series of girls aged 14 or 15.[24] These – as Tregoys angrily complained – trumped-up charges were sufficiently serious to persuade him to appear in king's bench in person, but he lost little time in deploying all the ruses available at common law, including the bribing of a jury, and when, in July 1437, King Henry VI, now formally declared an adult, offered a general pardon for all offences preceding his coronation, Tregoys lost little time in availing himself of this opportunity.[25] In the interim, however, Tregoys – like Vivian before him – had gone to fight in France to escape the consequences of his activities, and although litigation against him continued in the Westminster courts, his absence from England on a series of expeditions between 1436 and 1443 evidently gave him little opportunity for further clashes with his neighbours.[26]

Yet Tregoys's reformation was short-lived. During the summer of 1448 he became guilty of a series of attacks on the burgesses of Bodmin (who had returned him to parliament in 1435), ostensibly to secure the surrender of a tin toll left to the parish church there by the tin merchant Udy Philpot. Two among these attacks stood out for their gratuitous brutality: on 7 June 1448 Tregoys and his men encountered the Bodmin burgess Reynold Tregenethe at the mine from which the disputed toll arose, beat him and left him for dead, and a month later, on 5 July, two of Tregoys's servants abducted seventeen-year-old Roger Wodecok from Brynnewater and took him to their master's house, where Tregoys himself tortured

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22 TNA, KB 27/695, rex rot. 6; KB 27/729, rex rot. 1.

23 *CPR*, *1422–29*, p. 550; *CPR*, *1429–36*, pp. 351, 468; TNA, KB 27/729, rex rot. 1.

24 TNA, KB 27/695, rex rot. 3d; KB 27/714, rex rot. 20.

25 TNA, C 67/38, m. 1.

26 TNA, KB 145/6/21; *Report of the Deputy Keeper of the Public Records* (120 vols, London, 1865–1959), vol. 48, pp. 313, 359; TNA, E 159/213, *recorda* Michaelmas rot. 3d.

the boy. He repeatedly tied bowstrings and 'ffreylynge cordes' around Wodecok's head, drawing them tight until they broke, and until blood began to spurt from his victim's eyes and nose. He tied the young man's hands behind his back, struck him on the cheeks and finally cut off his left ear with a knife.[27] Widely decried as 'a rioutes and mesgoverned man', who kept a liveried retinue of armed malefactors, and preyed upon the men of his shire,[28] Tregoys died as he had lived: on 30 August 1452 he was killed in an ambush near Tregony Pomeroy by the local esquire, Reynold Tretherf, one of his many enemies.[29]

II

Perhaps the most widely known of fifteenth-century Cornish outlaws is Sir Henry Bodrugan.[30] His position as heir to one of the largest gentry estates in Cornwall ostensibly made him an unlikely candidate for a career-criminal, but the long list of offences he was said to have committed has made him a byword for the peculiarly unruly nature of his class and lifetime.[31] At least one modern commentator has gone to some lengths to emphasise the bias of the sources for Bodrugan's criminal career, but even she has been forced to admit that at least some of the accusations against him are 'unusual enough to warrant suspicion'.[32] Certainly, during much of a career spanning four and a half decades and five reigns he filled his family's customary place in local administration, and represented his neighbours in parliament on at least one occasion.[33] Yet, before he was 34 years old, he was named in the parliament of 1459 among 25 men 'notariely and universally thorough oute all this your realme famed [and] noysed, knowen and reputed severally for open robbers, ravisshers, extortioners and oppressours of youre liege people'.[34] The circumstances of the Coventry parliament could suggest that the petition represented little more than an attempt by a partisan house of commons to settle old scores with opponents deprived of the protection of their newly attainted lords, Richard, duke of York, and his principal supporters, the Neville earls of Salisbury and Warwick, and the geographical provenance of many

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27 TNA, C 1/17/232–3.

28 TNA, C 1/45/108.

29 TNA, KB 9/271, nos. 73–4.

30 A.L. Rowse, 'The Turbulent Career of Sir Henry de Bodrugan', *History*, 29 (1944): 17–26; Ross, *Edward IV*, pp. 410–11; J. Whetter, *The Bodrugans: A Study of a Cornish Medieval Knightly Family* (St Austell, 1995), chapter 7; P. Maddern, 'Bodrugan [Trenowith], Sir Henry (*c*.1426–1487x1503)', in *ODNB*, vol. 6, pp. 415–16.

31 Rowse, 'Sir Henry de Bodrugan', 19; Ross, *Edward IV*, pp. 410–11.

32 Maddern, 'Bodrugan, Sir Henry', p. 415.

33 TNA, E 13/164, rot. 37d.

34 *Rotuli Parliamentorum*, ed. J. Strachey et al. (7 vols, London, 1767–1832), vol. 5, p. 367.

of the named individuals does indeed support such a reading. The political context should not, however, disguise the fact that many of the men named were in fact guilty as charged, and had abused the protection afforded them by their aristocratic patrons to shield themselves from the consequences of their actions.[35] Certainly, within a short period of securing livery of his lands in 1448 Bodrugan had come to the attention of the law courts. In the spring of 1449 he stood accused of abetting two of his servants in the murder of one Thomas Broun,[36] and not much over a year later, around midnight on 19 September 1450, he was said to have mounted a concerted attack on the house of Laurence Trewonwall, ostensibly in retaliation for the murder of one of his servants, William Higonsonne. With a gang that, according to Trewonwall, numbered 100 men, many of them Welsh, Irish or Dutch 'robbers uppon the See and men of werre', Bodrugan battered down the gates and doors with guns and ransacked the house, carrying off livestock and household goods, but also the jewellery of Trewonwall's wife and mother, as well as the vast sum of £400 in cash. Trewonwall himself was absent at the time, and his mother and pregnant wife managed to escape half-dressed through a back door, but the assailants found the householder's young children and nurse in bed, tipped the infants onto the floor, and beat the nurse and other servants.[37] Less than four weeks later, so it was claimed, Bodrugan's men abducted two minor local landowners, Peter Carthu and Walter Brode, and imprisoned them at Bodrugan for more than two weeks.[38] Other incidents followed. At Easter 1452 his arrest was ordered in connection with a trespass committed against one John Nans,[39] and, on the night of 7 February 1455, a band of Bodrugan's retainers waylaid and killed one John Fortescue at Pentewyn.[40] There were also some incidents clearly related to disputes over the profits of tin mining, reminiscent of Richard Tregoys's offences a generation earlier. In late September 1453 Bodrugan sent a group of his servants to summon the tinner Richard Trenans to his manor house at Bodrugan, but when Trenans arrived there refused either to see him or to allow him to return home. Eventually Trenans escaped, but Bodrugan nevertheless got what he wanted: he sent his servants to drive the tinner forcibly out of his tinworks, and to cart off his stock of mined tin.[41] Around the same time, a minor Cornish gentleman, Robert Wolvedon, complained to the chancellor that Bodrugan had driven the miners from

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[35] Carpenter, 'Law, Justice and Landowners', 231; *The Parliament Rolls of Medieval England*, ed. C. Given-Wilson et al. (16 vols, Woodbridge, 2005), vol. 12, p. 451.

[36] TNA, KB 27/752, rot. 27d; KB 27/754, rot. 86d; KB 27/762, rot. 77.

[37] TNA, C 1/1/68; C 4/5/105–6; KB 27/778, rot. 9d.

[38] TNA, KB 27/758, rots. 50, 50d.

[39] TNA, KB 27/837, rex rot. 4d.

[40] TNA, KB 9/277, nos. 25–6. Fortescue has not been identified; he may have been an illegitimate kinsman of the synonymous chief justice.

[41] TNA, C 1/1489/85.

a tinworks of his at Tremure, and had in addition refused to honour an agreement over the sale of wood from the manor of Restronguet.[42]

As a result of the act of parliament arising from the petition of 1459, the earl of Devon was appointed in June 1460 to head a commission charged with arresting Bodrugan and bringing him before the council, but the defeat of Queen Margaret's party, with whom Devon was closely associated, at Northampton in the following month probably prevented this commission from ever being executed.[43] Bodrugan for his part (as his inclusion in the petition of 1459 indicates) was already being counted among the partisans of Richard, duke of York, an association that may have resulted in part from a recent clash with Thomas Bodulgate, one of the principal Lancastrian officials in Cornwall,[44] and in part from a long-standing animosity towards the Courtenay earls of Devon. On his father's death, Bodrugan's wardship had been granted to Earl Thomas (father of the earl charged with his arrest in 1460) and he had come to live in the comital household at Tiverton. While there, he had successfully resisted the earl's attempts to marry him off to the sister of Edward Brooke, Lord Cobham, and further cause for disagreement between guardian and ward appears to have arisen from the earl's management of the young man's estates.[45]

With the Yorkist party in the ascendant, Bodrugan soon became one of the new administration's most trusted lieutenants in the far south-west, 'a myghty man [who] berith grete rewle'.[46] Yet, although he was regularly appointed to royal commissions in Cornwall, more senior offices, such as the shrievalty, eluded him.[47] This was not altogether surprising, for Bodrugan showed no signs of abandoning his high-handed – if not openly unlawful – conduct: in mid-March 1461, his servants seized the possessions throughout the county of Thomas Tregarthen, a lawyer with close ties to the deposed Lancastrian rulers;[48] in May 1462, Bodrugan himself raided the house of William Carnsnyowe and carried off various items of plate and Carnsnyowe's gold signet ring;[49] and, in June 1465, commissioners of oyer and terminer were appointed to investigate an assault by a group of Cornishmen headed by Bodrugan on the merchant tinner Richard Tomyow.[50] In October 1466 Bodrugan secured a general pardon,[51] but less than a year later a group of his men,

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42 TNA, C 1/16/474; Whetter, *Bodrugans*, p. 153.

43 *CPR*, *1452–61*, p. 609.

44 TNA, CP 40/782, rot. 416; CP 40/786, rot. 406d.

45 TNA, CP 40/778, rot. 409; Maddern, 'Bodrugan, Sir Henry', p. 415.

46 TNA, C 1/46/388; Whetter, *Bodrugans*, p. 141.

47 Whetter, *Bodrugans*, p. 145.

48 TNA, C 1/27/388.

49 *Rotuli Parliamentorum*, vol. 6, p. 139.

50 *CPR*, *1461–67*, p. 488; Rowse, 'Sir Henry de Bodrugan', 19; Whetter, *Bodrugans*, p. 153.

51 *CPR*, *1461–67*, p. 526; TNA, KB 27/837, rex rot. 4d.

led by his illegitimate son John Beaumont, murdered one John Helyer,[52] and he himself was not long after accused of seeking to press local men into his service by force.[53]

The political misjudgement of Sir John Arundell of Lanherne, the only Cornish landowner richer than Bodrugan, in supporting Henry VI's readeption in 1470 and raising troops for Queen Margaret the following spring,[54] left Bodrugan the indisputable 'scheff reulere of Cornwayle'[55] in the aftermath of the Lancastrian defeat at Tewkesbury. Once more, however, he apparently carried out his official duties in a somewhat cavalier and high-handed manner. In the autumn of 1473 and spring of 1474 the royal law courts, the king's council and the parliamentary Commons heard a series of accusations by those who had in some way fallen foul of him. Two members of the Cornish gentry, James Trefusis and Thomas Neville, informed parliament that on Pentecost Sunday 1473 Bodrugan, with a large force of his armed retainers, had sacked Trefusis's house at Trewonnal, carrying off household goods and valuables including five gold rings, and driving away more than 20 head of livestock, before seizing and looting a ship of his two weeks later, while on 15 August 1473 Bodrugan and an associate, Richard Boneython, had deprived Neville of a newly dug tin mine called the 'Cleker', and the tin and equipment found both there and at his house.[56] One Robert Cuthbert claimed to have been ambushed and robbed by Bodrugan and a band of associates of a valuable piece of tin, his horse, weapons, and cash on 25 April 1474 at Truro.[57] Richard Tanner, the king's constable at Tregony, complained of having been threatened and blackmailed by some of Bodrugan's men because of the protection that he and John Aunger, a priest from Glasney, had offered to a woman who had been abducted by, and escaped from, a Welsh priest.[58]

Perhaps most forceful was the complaint of four important members of the county gentry, nominally headed by the young John Arundell of Tolverne as representative of the senior cadet branch of the Arundells of Lanherne, and claiming to act on behalf of 'many and grete multitude of [the] true poore

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[52] TNA, KB 27/831, rot. 15.

[53] TNA, C 1/46/388.

[54] *Historie of the Arrivall of Edward IV, in England and the Finall Recouerye of His Kingdomes from Henry VI. A.D. M.CCCC.LXXI.*, ed. J. Bruce (Camden Society, first series, 1, London, 1838), p. 23.

[55] *A Chronicle of the First Thirteen Years of the Reign of King Edward the Fourth, by John Warkworth, D.D.*, ed. J.O. Halliwell (Camden Society, first series, 10, London, 1839), p. 26.

[56] *Rotuli Parliamentorum*, vol. 6, pp. 132–5, 140–41; Rowse, 'Sir Henry de Bodrugan', 20–22.

[57] TNA, KB 27/854, rot. 27.

[58] TNA, C 1/48/81; Whetter, *Bodrugans*, pp. 136, 161, 164. Notably, Tanner himself also courted some controversy and had to defend his actions in chancery on more than one occasion: TNA, C 1/61/184; C 1/82/29, 78.

subgiettes of [the] said counte of Cornewaill'.[59] Their petition, directed to Edward IV himself, told in colourful terms of the 'robberies, dispoyleries of marchauntes straungers, … murthers, robberyes aswell by water as by lond, ravysshements of women, extorcions, oppressions, riottes, unlawfull assemblies, entres with force and wrongfull enprisonementes' of which Bodrugan had been guilty, and went on to relate an act of piracy against a Breton ship by two vessels equipped by Bodrugan said to have taken place on 4 June 1474. Furthermore, on 20 September 1473 Bodrugan had raided John Penpons's houses at Truro and Helston and taken household goods, corn and livestock worth more than £18, on 6 May 1474 armed men in Bodrugan's service had set fire to Otis Philip's house at Polwhele (in St Clement) and made off with weaponry and silver plate, as well as a substantial quantity of tin, and four days later Bodrugan and his men had plundered household goods worth over £30 from Arundell's house at Tolverne. These attacks on specific individuals aside, Bodrugan was said to have usurped the authority to prove wills, in order to alter them and seize the testators' possessions, and on the pretext of a royal commission of array had extorted money from the county at large.[60]

In June 1474, parliament agreed to strident measures to bring Bodrugan to justice, and King Edward acquiesced. Bodrugan's enemies had evidently picked their moment carefully. At the end of September 1473 the Lancastrian stalwart John de Vere, earl of Oxford, had seized the fortified island of St Michael's Mount off the Cornish coast. A week later, parliament reassembled at Westminster, but it took a further three weeks before Sir John Arundell of Lanherne (who just two years earlier had supported the Lancastrian readeption) and all the greater gentry of the far south-west, including Bodrugan, who was then representing his county in parliament, were instructed to retake the Mount.[61] Probably on account of Arundell's sudden death, Bodrugan before long found himself in effective command of the siege. Yet, much to the chagrin of king and council, he not only opened negotiations with Oxford (perhaps assisted by some ties of kinship between them dating back to the late fourteenth century), but actually permitted the supply of provisions to the besieged island, and after the Mount's surrender took some of Oxford's men into his service. Informed of this, Edward IV handed control of the siege to the sheriff of Cornwall, John Fortescue, who received the surrender of St Michael's Mount the following February, while Bodrugan was left to face his enemies' charges.[62] Under the terms of the acts of parliament resulting from the petitions of Neville, Trefusis, Arundell and their associates proclamations summoning Bodrugan to appear in king's bench on 11 July were made in London and Launceston at the end of June 1474, and when he failed to appear he was

[59] The other named complainants were John Penpons, a former escheator, William Carnsnyowe, a future sheriff of Cornwall, and Otis Philip, a yeoman of the crown.

[60] *Rotuli Parliamentorum*, vol. 6, pp. 138–40; Whetter, *Bodrugans*, pp. 155–6.

[61] *CPR*, *1467–77*, pp. 399–400.

[62] *Chronicle of John Warkworth*, pp. 26–7; Rowse, 'Sir Henry de Bodrugan', 17–19; Whetter, *Bodrugans*, pp. 143–4.

formally attainted of felony, and his lands were seized into the king's hands. Bodrugan was, however, still a member of the Commons, and consequently able to present his defence in parliament in January 1475 and petition for his attainder to be reversed. He claimed that in seizing Neville's tin mine he had merely been acting in his capacity of a justice of the peace, seeking to protect the rights of the poor tinners whom Neville, for his part, had deprived of the mine, and explained his failure to appear in king's bench when summoned to justify himself by the unusual terms of the acts of parliament passed against him, under which he was to be arrested as soon as he appeared, and would be tried by examination, rather than by a jury, contrary to the common law. King, Lords and Commons agreed to Bodrugan's petition, and he was restored and his lands were returned to him.[63] In spite of the new arrangements for the governance of the far south-west which Edward IV put in place from 1475 in the form of the equitable jurisdiction of the young prince of Wales's council, the king still needed Bodrugan's services in the locality. Knighted at the prince's investiture in April 1475, from that November he was once more appointed to royal commissions, and in July 1477 he was restored to the county bench, from which he had been omitted following his attainder.[64] Nevertheless, it is not clear that Bodrugan had learnt a lesson from his troubles. On more than one occasion in the years that followed the courts heard complaints about the high-handed manner in which he discharged what he claimed as his official duties, and in June 1479 and March 1484 he took the precaution of suing out general pardons for his previous offences.[65]

Richard III's usurpation, if anything, served to strengthen Bodrugan's position in his native county. The flight of many members of the leading gentry, including Sir Thomas Arundell of Lanherne, to join Henry Tudor in Brittany after Buckingham's rebellion left him the wealthiest and most influential knight in the county. Yet, with Richard's defeat and death at Bosworth the tables turned once more. Although Bodrugan was given charge of an investigation into an act of piracy in February 1486, he had been dropped from the county bench the previous autumn, and just a year later his documented career came to an end as dramatic as his life had been. On 8 February 1487 Henry VII issued a commission for his arrest on charges of stirring up sedition.[66] By the early nineteenth century, popular tradition had it that Bodrugan clashed with the commissioners, led by Richard Edgcombe, an old enemy of his, in a field to the west of his crenellated manor house, was defeated, and made good his escape by a daring jump from a cliff.[67] Whether or not this dramatic escape took place, Bodrugan certainly found his way to Ireland, and was present at Lambert Simnel's 'coronation' in Dublin in May.

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63 *Rotuli Parliamentorum*, vol. 6, pp. 132–43; *CPR*, *1467–77*, p. 491.

64 W.A. Shaw, *The Knights of England* (2 vols, London, 1906), vol. 1, p. 136; *CPR*, *1467–77*, p. 610; *CPR*, *1476–85*, p. 556.

65 TNA, SC 1/50/142, 162; C 67/51, m. 4; *CPR*, *1476–85*, p. 180.

66 *CPR*, *1485–94*, p. 179.

67 Whetter, *Bodrugans*, p. 171.

(A later claim by two of Bodrugan's descendants that he had gone to Ireland for an innocent visit to relatives is clearly far-fetched, but the possibility that he pre-empted King Henry's commissioners by flight may nevertheless be true.) It is not certain whether Bodrugan returned to England to fight for Simnel at Stoke, but he was among those attainted by parliament in November. Nothing further is heard of him, and if he did not meet an unnoticed end in battle, he died equally unnoticed in exile at some point before 1503.[68]

It is clear that Bodrugan's career, more than those of either Vivian or Tregoys, owed much to the exceptional circumstances of the turbulent political history of the period that it spanned, yet it is surely too much to suggest that it was simply 'symptomatic of what was going on on a larger scale elsewhere with greater personages'.[69] In Bodrugan's case, the need of the Yorkist regime for supporters in the far south-west arguably created a greater tolerance for his unlawful conduct than might otherwise have been the case. It is against this backdrop that those of his offences that appear to represent little more than high-handed execution of official duties may be seen.[70] Equally, Bodrugan's quest for an increased share in the profits of the tin industry and his acts of privateering or piracy were in keeping with the activities of many of his peers. Nevertheless, it seems that his social pre-eminence in his native county, particularly in the 1470s, predisposed him to test the boundaries of the acceptable.

III

Qualitatively rather different from the long criminal careers of men such as Tregoys, Vivian or Bodrugan, was the apparently brief lapse into crime of Sir Ralph Botreaux. His story nevertheless deserves consideration here on account of the peculiar notoriety and unusual nature of his criminal activity. Of greater social standing than any of the other men whose careers we have examined, he was born at some point before 1385 as the third son of William, Lord Botreaux, head of a knightly Cornish family that had been elevated to a barony just a few decades earlier. Of baronial stock on both his parents' sides (his mother had been a daughter of the Somerset baron Ralph, Lord Daubeney, and his wife Katharine, for her part a daughter of Marmaduke, Lord Thweng), Sir Ralph was too young to play any part in local administration under Richard II. He may, however, have built up personal ties with Henry Bolingbroke, to whom he probably owed his knighthood, and after whose accession he was entrusted with diplomatic missions to the Continent. About the same time he became involved in local government in

[68] TNA, STAC 2/23/305; M. Bennett, *Lambert Simnel and the Battle of Stoke* (Gloucester, 1987), p. 64; Rowse, 'Sir Henry de Bodrugan', 24–5; Whetter, *Bodrugans*, pp. 171–2; Maddern, 'Bodrugan, Sir Henry', pp. 415–16.

[69] Rowse, 'Sir Henry de Bodrugan', 19.

[70] Whetter, *Bodrugans*, p. 136.

his native Cornwall; he served as a royal commissioner and a justice of the peace and was returned to parliament as a knight of the shire on five occasions between October 1404 and 1427.[71]

Yet, in August 1426 a high-powered royal commission was appointed to investigate allegations that this apparently unexceptional representative of his class had employed the services of soothsayers and necromancers in a bid to kill his nephew William, the third Lord Botreaux, whose life was all that stood between Sir Ralph and the baronial title itself.[72] As a result of the commission's findings, Sir Ralph was imprisoned in the Tower of London, and only released in late October, when Lord Botreaux himself and John, Lord Talbot and Furnival, found sureties of 1,000 marks for his good behaviour and future appearance before the king's council. What had happened to excite such extreme measures? No record of the commissioners' findings or of Botreaux's examination before the council appears to survive, but fortuitously for the historian Sir Ralph's hasty attempts to cover his tracks in the wake of the commissioners' appointment came back to haunt him five years later. In the summer and autumn of 1431 a string of presentments and appeals against Sir Ralph and a number of his servants were heard by the Cornish county coroners and justices of the peace.[73] Pieced together, a dramatic story emerges. About the feast of Pentecost 1426 Sir Ralph Botreaux had summoned his parker of Restormel, Thomas Merssh, to Pylle near Lostwithiel. There, Botreaux had received Merssh while in bed, and had instructed him to deliver the keys to Restormel castle to his servant William Nanskelly and a certain 'innocent' in his company. This done, Merssh was ordered to keep clear of his park, under pain of his life. Merssh had done as instructed, and Nanskelly and his companion (who, far from being an 'innocent', was a clerk named John Neuport who practised necromancy, and who had undertaken to kill Lord Botreaux by his black art) had entered the castle and made their way to the eastern end of the park. There, they had drawn a circle in the ground, and made a great fire, the smoke of which was visible for three miles around. They had then returned to the castle and conducted other ceremonies there. As a result of their activities, so it was alleged, a prisoner in the castle dungeon by the name of John Pruwet was

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[71] A fuller account of Botreaux's career may be found in *The Commons 1386–1421*, vol. 2, pp. 313–14.

[72] The commission was appointed as a result of a petition presented to the king's council by Lord Botreaux: TNA, SC 8/35/1717; *CPR*, *1422–29*, p. 363; G.L. Kittredge, *Witchcraft in Old and New England* (Cambridge, MA, 1929), p. 80. There is an extensive literature on late medieval witchcraft and sorcery. A useful introduction to the subject is provided by R. Kieckhefer, *Magic in the Middle Ages* (Cambridge, 1989). On the authorities' attitude to instances of necromancy, see, for example, E. Peters, *The Magician, the Witch and the Law* (Philadelphia, 1978), esp. chapter 6. The political context of killings by necromancy is discussed by H.A. Kelly, 'English Kings and the Fear of Sorcery', *Medieval Studies*, 39 (1977): 206–38.

[73] TNA, KB 9/226, nos. 78, 83–5, 93–4.

in that same night visited by a devil, who menaced him until he crossed himself, whereupon the devil departed out of the window with a great clap of thunder. The following morning, Nanskelly had himself come to interview the prisoner and asked him whether he had heard or seen anything in the night, and when told of the devil laughed and seemed pleased. Nanskelly and Neuport had then returned to Botreaux at Pylle.[74] In the interim, however, Lord Botreaux had been alerted to the conspiracy to murder him by some of the lesser individuals involved.[75] In response to his petition to the council, a royal serjeant-at-arms was dispatched to arrest Sir Ralph and bring him to London. It would appear that Sir Ralph had already decided to rid himself of the incompetent necromancer, before Neuport could incriminate him. On 10 August at Trevery, he instructed John Deacon and Walter Truscote, two farm labourers from his manor of Trewinnick, to do away with Neuport. However, following Botreaux's imprisonment in the Tower there was apparently some confusion as to what precisely was to be done about Neuport, and in the first instance he was hidden away in a hollow oak tree. Only in September did Truscote and Deacon take delivery of the prisoner, and they conveyed him to Trewinnick, where he was placed in the charge of Nicholas Hody, one of Sir Ralph's household gentlemen. Here he remained for several weeks, while Hody rode to London to consult with his master in the Tower. On 19 October he gained an interview with Sir Ralph, who instructed him to make Neuport disappear so that he should not reveal his part in the conspiracy 'in confusionem et reprobacionem ipsius Radulfi'.[76] Eight days later, Hody was back in Cornwall. He summoned Deacon and Truscote and ordered them to take Neuport to the sea coast, and to kill him, which they did at Stranghill near Tintagel. Immediately on the murderers' return, Hody took to his horse once more and rode in haste to London to inform Sir Ralph that the matter had been settled. However, Sir Ralph, who had by then been released from the Tower, proved less enthusiastic about the news than might have been expected: he provided for mass to be said for the dead sorcerer's soul at the London Charterhouse, and declared himself worried that the murder might be discovered.[77]

This fear was evidently justified, for, in spite of Sir Ralph's apparent accommodation with Lord Botreaux, in 1431 his principal accomplices were rounded up, and proceeded to make full statements in an attempt to save their own necks. Between July and October, Hody, Merssh and Truscote all turned approvers and made statements incriminating Sir Ralph.[78] In mid-March 1432, all indictments of the approvers and their statements were collected into king's bench. Ten days later, Truscote made a further statement in the light of which Sir Ralph himself was arrested, and later, in January 1433, suffered the ignominy of being led into

[74] TNA, KB 9/226, nos. 83–4.

[75] TNA, SC 8/35/1717.

[76] TNA, KB 9/226, no. 82.

[77] TNA, KB 9/226, nos. 82–5; *CCR*, *1422–29*, p. 279.

[78] TNA, KB 9/226, nos. 81–2.

Westminster Hall a prisoner by the marshal of king's bench. Nevertheless, five weeks after Easter a jury acquitted Botreaux, but Truscote, who should normally have suffered the penalties of his false appeal, successfully pleaded benefit of clergy and proved his literacy.[79] In February, Botreaux had concluded a fresh agreement with his nephew, secured by a bond for £1,000, which guaranteed the descent of his property in the event of his childless death to Lord Botreaux. This proved a timely settlement, for less than six months after his acquittal, Sir Ralph died – seemingly of natural causes.

IV

The careers of our four gentry criminals illustrate some of the different considerations which might motivate a member of the landholding elite to break the law. The centrality of disputes over land to the violent disagreements that reached the law courts is borne out not only by Sir Ralph Botreaux's quest for his family's lands and title and some of the more run-of-the-mill seizures of grain and livestock of which Vivian was accused, but also by certain of the more significant episodes in Sir Henry Bodrugan's career. Among the array of goods and valuables which Bodrugan was accused of stealing from his opponents' houses in 1474 were two boxes of muniments. Their significance becomes immediately apparent from a petition which Bodrugan presented to the chancellor not long after, concerning the refusal of his feoffees to return to him lands at Truro: the feoffees in question were none other than Penpons, Trefusis, Arundell and Philip, the very men whose houses he was said to have looted.[80] Yet, Bodrugan's career, along with that of Tregoys, also had an unmistakeably local flavour. Some of their offences serve to illustrate the place of tin and the means of its production as a catalyst for lawless behaviour in Cornish society. Tinworks and tin tolls might be seized, and tinners and tin merchants attacked in order to secure the wealth mining promised. Similarly, it comes as little surprise that Bodrugan should have been among the many landowners implicated in one of the acts of piracy off the Cornish coast that the gentry were periodically commissioned to curb. If the accusations against our quartet may be believed, they combined well-established criminal practices with more inventive ones. Like many members of the medieval gentry Bodrugan and Tregoys employed bands of retainers to do their dirty work. Yet, it may be a measure of Tregoys's character that he was, apparently, not above getting his own hands dirty and personally torturing his victims. If Vivian's crimes appear commonplace, it nevertheless seems that he personally stabbed to death John Nicoll at Bodmin, be it in cold blood, or in the course of a fight. By contrast, Bodrugan and Botreaux were above shedding blood in person; indeed, the latter actively showed remorse for the murder of the hapless necromancer John Neuport.

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79 TNA, KB 27/687, rex rot. 8; KB 9/226, nos. 77, 81, 92.

80 TNA, C 1/58/34–6.

In this and other circumstantial detail, our four case studies provide a welcome reminder that 'the gentry' should not simply be treated as a homogeneous mass.[81] Rather, the records reveal our quartet as four distinct individuals, with discernible differences of temperament and disposition. While Tregoys comes across as an unrepentant and brutal man, and Vivian portrayed himself as the largely innocent victim of his opponents' malice, Bodrugan's apparent high-handedness in the execution of his official duties conveys the impression of a haughty man conscious of his standing and unwilling to suffer challenges to his pre-eminence, tempered perhaps by his staunch political loyalty in the turbulent period of the Wars of the Roses. The graphic descriptions of Botreaux's part in the attempted murder of his nephew provided by the statements of his servants and accomplices make him seem, perhaps, the most rounded of our quartet of lawbreakers. His apparently rapid repentance of the murder of the sorcerer, and the provision of a mass for Neuport's soul, gives him a more human quality than any of the other three acquires from the formulaic texts of the legal records.

Beyond the gentry's criminal behaviour, the four case studies discussed here also serve to illustrate some of the workings and shortcomings of the system of law enforcement. To find the common law of little effect comes as no surprise. The agencies of its enforcement in the locality, above all the sheriff and the justices of the peace and of oyer and terminer, were drawn from the ranks of our quartet's social peers, and had only limited interest in risking an open confrontation – where they personally had the power to do so – thereby potentially sparking a personal feud that might in time escalate. According to his own deposition, Bodrugan's clash with Thomas Neville represented just such a dispute arising from his execution of his office of justice of the peace, and he later faced other litigation that apparently resulted from his attention to his official duties. Botreaux's case shows that, while his servants and retainers might be arrested and tried at common law, he himself could only be brought to justice by sterner measures. Tregoys on several occasions openly flouted the authority of the justices of the peace by resisting arrest. Vivian, by contrast, appeared before the common law courts more than once, but not before he had taken the precaution of protecting himself by securing a royal pardon, the sure means of disarming the common law readily available to those who could afford to pay for it. Tregoys and Bodrugan both also availed themselves of pardons on various occasions, and it is a further indication of the exceptional nature of Botreaux's case that he appeared in king's bench and relied on a jury to acquit him.

Recourse to the equity court of chancery promised somewhat greater success, but was, in the final analysis, marred by difficulties similar to those which dogged the common law process. Chancery's principal weapon in forcing a defendant to appear was the writ of *sub poena*. The delivery of this writ, however, was normally a suitor's own responsibility, and – as the experience of Richard Tregoys' victim Richard Gay illustrates – few defendants of influence took kindly to attempts

[81] Carpenter, 'Law, Justice and Landowners', 206.

to serve such a writ on them.[82] Perhaps most interesting are the instances in the careers of Botreaux and Bodrugan which saw their victims and opponents resort to extraordinary measures to bring them to justice: arrest by a royal serjeant-at-arms, imprisonment in the Tower of London and examination before the king's council in the case of the former, and special process of law on the authority of an act of parliament in that of the latter. In both instances, the measures adopted were designed to remove the offender from his locality to London where his influence could not impede the legal process against him. Yet, interestingly enough, Bodrugan's position as a member of parliament gave him enough influence even at Westminster to see the act against him repealed. Once again, one of the gamekeepers had successfully used his privileged position to avoid the consequences of his poaching.

[82] Gay's experience was not unique: for another example, see TNA, C 1/9/309.

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Chapter 8
Pirates and Communities: Scenes from Elizabethan England and Wales

John C. Appleby

In 1486 Henry VII reached an agreement with the northern port of Hull for the safeguard of the sea against pirates and rovers. According to its main terms the mayor and aldermen agreed to take bonds or sureties from mariners aboard English ships for the maintenance of the 'king's peace on the seas', while undertaking to arrest all maritime robbers and spoilers who came into the port.[1] Such an agreement was neither new nor unusual. The nature of late medieval and early modern government meant that the repression of lawlessness at sea was often left in the hands of local or private interests. In 1470, for example, Sir John Howard, later duke of Norfolk, provisioned and sent out two ships to seize pirates at the mouth of the river Thames.[2] These arrangements reflected the weakness of successive regimes in dealing with the menace of maritime disorder and piracy. At the same time they underline the localised nature of English depredation, and its characteristic dependence on shore-based support. During a confusing period in the development of English piracy, when the distinction between illegal and legal plunder was often difficult to maintain, piratical activity in the seas around the British Isles benefited from the widespread connivance of local communities. The ambivalent character of relations between pirates, their victims and supporters created a peculiar form of enterprise, involving the illicit redistribution of wealth, often on an extensive scale, that required trade, safe bases and markets for its effective operation. In these circumstances, piracy as a form of seaborne outlawry took on the appearance of an entrepreneurial, as much as a criminal, venture. Its persistence thus raises far-reaching questions concerning the nature and extent of the relations between pirates and communities, as well as about local attitudes and responses to robbery and spoil at sea. Against a background of fluctuating, but increasingly organised depredation at sea, this chapter explores these relations

I am very grateful to Professor Claire Jowitt of Nottingham Trent University for reading and commenting on an earlier version of this paper.

[1] *Calendar of the Ancient Deeds, Letters, &c in the Archives of the Corporation*, ed. L.M. Stanewell (Kingston-upon-Hull, 1951), p. 70.

[2] M. Oppenheim, *A History of the Administration of the Royal Navy and of Merchant Shipping in Relation to the Navy from 1509 to 1660* (London, 1896; repr. Aldershot, 1988), p. 32.

in various maritime regions of England and Wales, focusing particularly on the 1570s and 1580s, when the Tudor regime struggled to deal with a crime that was also a business and a means of employment for a growing number of men and, indirectly, for women.

Context: The Problem of Piracy

By the later Middle Ages piracy was both a long-standing problem for merchants and monarchs, and a well-established form of maritime enterprise for seafaring adventurers of varied backgrounds. The Hundred Years War between England and France, followed by the collapse of the English monarchy during a time of insurrection and civil conflict, provided a fertile breeding ground for maritime plunder which blurred the distinction between legitimate and illegitimate depredation. Maritime conditions during the 1450s and 1460s enabled powerful magnates, such as the earl of Warwick, to set forth fleets of vessels, the legality of which varied according to political circumstances. The difficulty in distinguishing between piratical venturing and legally commissioned activity allowed pirates and other rovers to operate with impunity, often with the open support of the inhabitants of remote regions, such as south-west England, where weak government was unable to prevent the spread of lawlessness and violence from sea to land. In a revealing case from the 1450s, William Joyce, a merchant of Bristol, who was spoiled at sea by a vessel belonging to Richard Penpons, a gentleman of St Ives in Cornwall, complained that efforts to recover his goods were frustrated by a crowd of eighty 'riottous persones … arraied in maner of warre'.[3] Orchestrated by Penpons, who insisted that the goods were lawfully taken, the crowd followed Joyce's movements with the apparent intention of killing him and his associates. Nor was such disorder easily eradicated or contained.

Under these conditions, English depredation, and the responses to it, were manifest in varied forms. Pirates and other rovers were able to acquire or adopt roles that ranged from the criminal adventurer or entrepreneur to the local or national folk hero. With the connivance of sympathetic supporters, pirate captains, such as the notorious John Callice who was active during the 1570s and 1580s, also sought to portray themselves as patriotic subjects of the monarchy. As piracy was a criminal activity which was open to contested and conflicting interpretations, pirates were rarely stigmatised as *hostis humani generis* during the period covered by this chapter, though they were widely acknowledged as evil-doers who faced

[3] C.L. Kingsford, *Prejudice and Promise in Fifteenth-Century England* (Oxford, 1925), pp. 197–8: R.A. Griffiths, *The Reign of Henry VI* (London, 1981), pp. 201–202. For similar problems concerning Sir John Killigrew during the 1580s, see *APC 1581–82*, pp. 315, 356, 397, 415, and A.L. Rowse, *Tudor Cornwall* (London, 1941), pp. 329, 385, 412.

the threat of excommunication after 1584.[4] As a result, the criminalisation of piracy was open to repeated negotiation between pirates, communities and the state. As outlaws of the sea, whose behaviour was essentially parasitic, pirates were able to cloak their activities in varying guises, enabling them to establish extensive networks of support which drew on local and regional customs and practices.

English depredation during this period was characterised by varied patterns of enterprise. Within local waters, piratical activity usually involved small-scale and short-range venturing, undertaken by a variety of small, often poorly armed, but heavily manned vessels. It ranged from opportunistic, random and indiscriminate spoil to more organised, structured and focused plunder. While the former could occur almost anywhere in the waters around the British Isles, the latter was increasingly concentrated on busy trade routes or fishing grounds in the Channel and western approaches, the Irish Sea and the North Sea. For many of those who served aboard pirate ships, moreover, piracy was a part-time employment which was easily assimilated into the work cycles of seafaring communities. Not all pirates were of such backgrounds; for those who were, however, piracy represented an extension of uncertain and irregular working patterns that were linked with occupational and geographical mobility.[5] In some cases it was the product of casual opportunism and chance encounters at sea or on land.

The persistence of this kind of piratical venturing was accompanied by the emergence of longer-range, more ambitious forms of depredation. Partly as a consequence of mounting anti-Spanish hostility, which was influenced by commercial and religious changes, English piracy and privateering spread into the Atlantic, dramatically appearing in the Caribbean during the 1570s, and ranging into the Mediterranean and along the Barbary coast by the later sixteenth century. Francis Drake was a leading figure in the growth of transatlantic plunder.[6] However it was sustained by the availability of recruits in south-west England, and encouraged by prominent members of the late Tudor regime. For political, strategic or economic reasons, at varying times the regime acquired a vested interest in more organised forms of plunder. As the career of Drake demonstrates,

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[4] C. Harding, '"*Hostis Humani Generis*"– the Pirate as Outlaw in the Early Modern Law of the Sea', in C. Jowitt (ed.), *Pirates? The Politics of Plunder, 1550–1650* (London, 2007), pp. 20–38; C. Hill, *Liberty Against the Law: Some Seventeenth-Century Controversies* (London, 1996), p. 195; P. Earle, *The Pirate Wars* (London, 2003), pp. 23–5.

[5] For a view of pirates as beggars, see *Copy-book of Sir Amias Poulet's Letters Written during his Embassy to France (1577)*, ed. O. Ogle (Roxburghe Club, London, 1866), p. 227; C.A. Fury, *Tides in the Affairs of Men: The Social History of Elizabethan Seamen, 1580–1603* (Westport, CT, 2002), pp. 21–3.

[6] Despite the confusion between piracy and privateering, there was a vital legal distinction between them. The latter was justified by letters of marque or reprisal, which were used interchangeably during this period, and was acknowledged to be a lawful means of obtaining redress.

there were times when piracy was effectively 'legalized by success', despite a groundswell of overseas complaint and the threat of retaliation.[7]

While there was rarely a year during this period when some form of spoil did not occur in the waters around the British Isles, the scale and intensity of piratical activity fluctuated widely. The reasons for this varied, not least because of the changing nature of maritime depredation. The growth of piracy was often explained by unemployment among seafarers. But it was also linked with local conditions, and encouraged by the opportunities presented at sea by international crises or conflict. From 1461 to 1483, for example, the lack of prolonged hostilities between England and its European neighbours, combined with the restoration of firm government and a revival of overseas commerce, led to a marked reduction in recorded piracy which was maintained into the early Tudor period.[8] Thereafter, the promotion of privateering during times of war by the regime, for strategic and financial purposes, led to the expansion of legitimate depredation which easily became piratical in nature. The legacy of such conflicts was seen in the growth of piracy, which was one of the consequences of the Anglo-French wars of the 1540s and 1560s, and of the war with Spain during the 1580s and 1590s. International rivalries and domestic insurrection or rebellion influenced the growth of maritime depredation, while also affecting government and community responses to it. In such circumstances, Protestant rovers from the Low Countries and France were welcomed in English ports during the 1560s and 1570s. Many of these rovers sailed with commissions of questionable validity, issued by Dutch or French rebel leaders; others, including a growing number of English adventurers, lacked any form of legal validity. But in a war-torn and deeply divided Europe the spoil of Spanish or French shipping, by self-appointed defenders of the Protestant cause, became a patriotic duty.[9]

This environment encouraged a long-term upward trend in piracy and maritime disorder. Alongside the persistence of petty plunder, which was indiscriminate and widespread, more purposeful and organised depredation grew in scale and extent. It is impossible to provide estimates for the numbers of men involved; nonetheless the 1540s, later 1560s and 1570s experienced striking upsurges in the volume of piratical enterprise. Sustained activity during the latter phase, which continued through to the outbreak of the Spanish war in 1585, led to the emergence of professionalised piracy under the leadership of men such as Callice and Robert Hicks. At various times during the 1570s and early 1580s at least thirty pirate

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[7] Oppenheim, *History of the Administration of the Navy*, p. 18; H. Kelsey, *Sir Francis Drake: The Queen's Pirate* (New Haven and London, 1998).

[8] C. Ross, *Edward IV* (London, 1974), pp. 366–8; M.M. Oppenheim, *The Maritime History of Devon* (Exeter, 1968), pp. 32–3.

[9] For a convenient overview, see K.R. Andrews, 'The Expansion of English Privateering and Piracy in the Atlantic, c.1540–1625', in *Course et Piraterie* (2 vols, Paris, 1975), vol. 1, pp. 196–230; C. L'Estrange Ewen, 'Organized Piracy round England in the Sixteenth Century', *Mariner's Mirror*, 35 (1949): 29–42.

captains were operating in the Channel and western approaches, and along the coasts of Spain and Portugal. With companies that ranged in number from 25 to 70, this would suggest that somewhere between 750 and 2,100 men were engaged in piracy at the time.[10] For some of these men, piracy was more than an occupation; it formed part of an irregular lifestyle, with its own code of conduct and culture, that was reflected in the development of a loosely formed pirate brotherhood which was sustained by shore-based supporters, particularly within a maritime region that spanned south Wales, south-west England and southern Ireland. To some extent the rapid growth of privateering after 1585 provided a legitimate cover for this wave of plunder. Despite the legal distinction between piracy and privateering, throughout the long Anglo-Spanish conflict English men-of-war engaged in an unruly and increasingly lawless search for prizes. Such was the damage to French trade and shipping, that, by 1602, it was reported from Rouen that the 'better sort' hated the English 'as though our nation lived on their spoil'.[11]

The vigour and success of the Tudor regime's response to piracy varied. Given the limited naval resources of the monarchy, pirates were identified not only as a troublesome problem but also as a potential resource which could be exploited to serve the interests of the state. In July 1584, Drake was authorised by the queen to scour the seas for pirates; nor was he the only example of a former pirate to be employed in this, or a related, capacity. By the early seventeenth century it was commonplace to argue that pirates, who represented some of the toughest recruits from seafaring backgrounds, should be redeemed and usefully employed in public service.[12] Consequently government policy towards piracy was essentially reactive in nature; moreover, its underlying ambivalence was reflected in the punishment of pirates. In London this was turned into an elaborate spectacle that was designed to serve several purposes. The shaming ritual of legal proceedings, followed by the hanging of offenders at Wapping Dock, partly to expose their lowly status and infamy, provided an opportunity for the public demonstration of remorse and redemption, while in turn emphasising the terrifying and potentially arbitrary power of the state. But these dramatic conventions could be subverted or

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[10] These estimates are based on scattered evidence and need to be interpreted cautiously: *CSPI 1509–73*, p. 231; *CSPI 1574–85*, pp. 315, 433. On Callice, see C. L'Estrange Ewen, *The Golden Chalice: A Documented Narrative of an Elizabethan Pirate* (Paignton, 1939).

[11] *CSPD 1601–1603*, pp. 269–70. In 1588 the lord admiral claimed that the ill-treatment of the English by the French 'compels them to commit piracy': *CSPD 1581–90*, p. 537.

[12] *CSPD 1581–90*, p. 192. John Dee argued that reformed pirates could be employed in the 'pety navy royall': J. Dee, *General and Rare Memorials Pertayning to the Perfect Arte of Navigation* (London, 1577), p. 6. One former pirate subsequently argued strongly against pardons: see *The Life and Works of Sir Henry Mainwaring*, ed. G.E. Mainwaring and W.E. Perrin (2 vols, Navy Records Society, London, 1922), vol. 2, pp. 18–9, 23, 42–3. For differing views, see J.C. Appleby, 'The Problem of Piracy in Ireland, 1570–1630', in *Pirates? The Politics of Plunder*, pp. 47–8, 54–5.

challenged by pirates who refused to perform their allotted roles. Furthermore, the social labelling or exclusion of pirates, whose bodies were left hanging in chains along the sea shore partly to underline their physical and symbolic separation from the community, was compromised by the pardon of arch-pirates, such as Callice or Henry Strangeways, as well as less notorious malefactors.[13]

Successive regimes adopted a variety of measures to combat the menace of piracy. In June 1478, Sir John Asteley and other civilian lawyers were authorised to enquire into recent robberies and breaches of safe conducts by pirates, and 'to punish the offenders according to the law and custom of the sea and the court of admiralty'.[14] The use of such ad hoc commissions, which included officials representing the high court of admiralty, persisted throughout the period covered by this chapter. They were reinforced by the use of proclamations, supplemented by directives and decrees to local officials. In 1484 the sheriffs were ordered to issue a proclamation for the conduct of men-of-war at sea which anticipated the development of the formal regulation of privateering. In November 1490, Henry VII responded to Spanish and Imperial complaints against the spoil of shipping by pirates, with a proclamation that prohibited the purchase of plundered commodities in English ports. Increasingly, attempts to deal with the problem of piracy acknowledged the importance of relations between pirates and their land-based supporters. In 1549 the maintainers of piracy were warned that they faced the same punishment as pirates and sea robbers, including the death penalty. More use was made of proclamations during the 1560s and 1570s, including the publication of decrees for the suppression of piracy against Spain, and for the arrest of English subjects aiding French pirates. Two proclamations extending and enforcing the penalties against piracy were issued during 1569. They were followed in June 1570 by a proclamation ordering the dismissal of officers who were involved in piracy, and another in March 1572 which placed subjects assisting pirates under martial law.[15]

In theory these measures rested on the force of law. The arrest and punishment of pirates was the responsibility of the lord admiral and the high court of admiralty. In accordance with civil law procedure, which was employed in the admiralty court, prior to 1536 the imposition of the death penalty required the confessions of offenders or the testimony of witnesses who were often difficult to find. Legislation of 1536 transferred the criminal jurisdiction of the court into the hands of commissions of oyer and terminer, operating more in accord with the

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[13] *CSPD 1566–79*, pp. 23, 26, 46. On pirate executions, see C. Jowitt, 'Scaffold Performances: The Politics of Pirate Execution', in *Pirates? The Politics of Plunder*, pp. 152–6.

[14] *CPR 1476–85*, p. 112.

[15] Ibid., pp. 493–4; *Tudor Royal Proclamations*: *Volume I*, *the Early Tudors (1484–1553)*, ed. P.L. Hughes and J.F. Larkin (New Haven and London, 1964), pp. 25–6, 444–5; *Tudor Royal Proclamations*: *Volume II*, *the Later Tudors (1553–1587)*, ed. P.L. Hughes and J.F. Larkin (New Haven and London, 1964), pp. 313–16, 335–6, 357–8.

common law; at the same time it removed benefit of clergy for pirates.[16] The new law was intended to make it easier to punish pirates; however, it failed signally to curtail the growth of piracy or to prevent the support that pirates received ashore. The severity of the legislation may have discouraged local communities from cooperating fully with the regime's intermittent attempts to deal with the problem. There is no evidence, for example, that the maintainers of pirates faced the threat of execution after 1549. In remote coastal regions aggressive and intrusive law enforcement might have provoked widespread community resentment.

During the 1530s and 1540s piracy and disorderly privateering flourished, especially in the Channel, often under the protection of local officials and with the assistance of seafaring communities along the south coast. The Isle of Wight was frequented by mixed groups of rovers who visited alehouses in search of hospitality, recruits and information. Irregular markets for the disposal of plunder flourished, possibly rivalling legitimate trades. Traders from towns in neighbouring counties, as well as merchants from as far away as London or Bristol, evidently flocked to Meadhole on the island in search of cheap commodities from pirates and privateers. The latter group included Robert Reneger of Southampton, who captured a rich Spanish prize off Cape St Vincent in June 1545. Reneger informed the privy council of his actions, and the plunder was placed in the Tower of London. But the Imperial ambassador, speaking on behalf of the Spanish, complained that instead of 'being punished like a pirate, (he) was treated like a hero'.[17]

Such was the scale of the problem by the 1560s and 1570s that the Elizabethan regime resorted to the use of commissions of piracy in the coastal counties of England and Wales. Their appointment appeared to be part of an ambitious national strategy for dealing with piracy, though it rested on the support of local officials and communities. Commissioners were given wide-ranging policing and supervisory powers, including responsibility for nominating deputies in ports and havens. By the terms of the commission for 1577, the deputies were instructed to make presentments of piratical and other suspicious activity to the commissioners. The latter were authorised to take the examinations of suspected pirates and their supporters, with the assistance of local juries, which were to be despatched to the privy council.[18] In effect, the commissions were an experiment in community policing under the guidance and supervision of the council. For that reason their impact was highly variable and short-lived. Indeed many of those appointed during 1565 appear to have remained inactive. While the commissions of 1577 met with a more energetic local response, in many areas they were unable to accomplish more than short-term deterrence. Subsequently, the regime's response

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[16] *The Tudor Constitution*, ed. G.R. Elton (2nd edn, Cambridge, 1982), p. 159.

[17] A. Spicer, *The French-Speaking Reformed Community and their Church in Southampton, 1567–c. 1620* (Southampton Records Society, 39, 1997), pp. 51, 131–2; *Letters and Papers of the Reign of Henry VIII 1545*, p. 454; *APC 1542–47*, pp. 109–10, 159.

[18] TNA, SP 12/123/44; Oppenheim, *Devon*, pp. 32–3; P. Williams, *The Tudor Regime* (Oxford, 1979), pp. 245–7.

to the threat of piracy was overshadowed by the outbreak of the Spanish war, and the development of large-scale privateering based in London and the south-west. From a political perspective at least, the maritime war helped to mask the problem of piracy, providing an outlet for maritime violence and disorder that was justified by necessity.

Pirates and Communities: Patterns of Activity and Enterprise

As the commissions of the 1560s and 1570s acknowledged, organised piracy around England and Wales flourished with the cooperation of land-based supporters. The interdependency between sea and shore was widespread and varied. It ranged from irregular and opportunistic contacts to sustained and regular relations, often based on pre-existing links between family, friends or neighbours. These contacts were vital for equipping, victualling and manning pirate ships, as well as for the support and maintenance of their companies, which included protection from arrest and imprisonment. In addition they provided access to markets for the disposal of plundered cargoes. In some regions the economic structure of piracy was sustained by far-reaching patterns of commerce, exchange and credit, including gift-giving. At times of intense piratical activity the disposal of plunder was a significant commercialised enterprise that represented a concealed and unregulated business beyond the supervision and control of the early modern state. The influx of pirate loot amounted to an uncertain trade in a varied range of commodities, untaxed and available at cheap prices or rates of exchange, which were widely dispersed to the benefit of local and regional economies.

The commissions of the later 1570s furnish a mass of evidence that illuminates the nature of the relations between pirates and communities. In some regions, particularly south-west England, piracy was based on a long and vigorous tradition of maritime depredation, which was undergoing change in the light of growing Anglo-Spanish rivalry and hostility. Elsewhere, in areas like south Wales, it appears to have been a short-lived activity linked with the emergence of resourceful pirate captains of local origin, who attracted support or patronage from the inhabitants of Cardiff and its wider hinterland. In other remote, but thinly populated coastal regions, such as north-east England, piracy was more occasional and opportunistic in character, and often the result of incursions by strangers. Wherever they visited, however, pirate bands appear to have expected hospitality. Where this was lacking, they were prepared to use intimidation and force to acquire provisions.

In south-west England, custom and tradition continued to favour widespread support for plunder, including piracy. Many of the pirate captains and their companies who operated in local waters came from the fishing and trading communities of Devon, Cornwall and neighbouring counties. Pirate ships haunted safe harbours, with the tacit approval of the inhabitants and usually under the protection of local landowners and officials, such as the Killigrews or the Rogers. During the 1570s and early 1580s pirate groups particularly favoured congregating about Lulworth

and Torbay. With the vital support of coastal landowners, it has been argued that a carefully constructed network of piracy operated during these years, ranging from Kerry in south-west Ireland to the English West Country.[19] In reality this network was probably more haphazard in structure, partly as a result of the instability of pirate activity and of local and regional variations among communities for whom piracy was either a popular crime or a problem that needed to be handled locally.

The situation in Dorset is indicated by evidence collected and assembled in a Book of Presentments by local juries for the piracy commissioners during May 1577. According to their report, three pirate captains, including Callice, had visited Lulworth and other havens within the previous six months. The jury for Melcombe Regis reported that one of the pirates, Court Hellenborgh (usually referred to as Court), brought three prizes, laden with wheat, wines, sugar and other goods, into the creek at Lulworth, where his company 'came comonlye Alande … and ther were lodged and supported in dyvers howses'.[20] Earlier in the year, Callice, in consort with Hicks, arrived in Portland Bay with a ship of 100 tons and another vessel, both laden with salt, raisins, almonds, sack and other commodities. Several sick members of Callice's company, in addition to two who were wounded, were lodged ashore; at least five more of the pirates stayed overnight in Weymouth. Despite instructions from the privy council to the mayor for the search and apprehension of the pirates, evidently they returned aboard Callice's ship with the assistance of one of the town's bailiffs. In addition to such assistance, local people flocked aboard the pirates' ships. At least 25 representatives from the surrounding area were reported to have visited Callice and Court, including Henry Howard, several of his servants, and another servant of Lord Thomas Howard. Among the others were Henry Rogers, gentleman; Henry Veale of Weymouth, who returned from Callice's ship with a lading of salt; and a variety of tradesmen and suppliers. Two men of Lulworth provided the pirates with beer. Webbe, a butcher from Dorchester, returned from visiting Callice with a report that he was well supplied with victuals, including two sides of beef.[21]

For a time the pirates' ships became the equivalent of a floating bazaar, operating as an informal market for commodities which were subsequently redistributed ashore. These transactions ranged from small-scale exchanges to larger commercialised dealings. John Pillerd of Dorchester returned ashore from a visit to Callice's ship with an iron bar and hatchet; another visitor from a neighbouring parish returned with a frying pan and a bag of salt. Thomas Paddington, a member of the jury for Wareham, confessed that he purchased a small quantity of wheat, along with several others, out of Court's ship. By contrast, a small group of

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[19] D. Mathew, *The Celtic Peoples and Renaissance Europe* (London, 1933), pp. 293–306; C. L'Estrange Ewen, 'The Pirates of Purbeck', *Proceedings of the Dorset Natural History and Archaeological Society*, 71 (1949): 88–109.

[20] TNA, SP 12/113/9. Local officials appeared to be helpless in the face of the pirate presence. See, for example, *CSPD 1581–90*, pp. 77, 237.

[21] TNA, SP 12/113/9.

dealers were involved in extensive exchanges with the pirates. Thomas Parkins and Christopher Anckell bought a boat from Court which was laden with two tons of iron, 30 hogsheads of lime, one hogshead of vinegar, two cases of glass and a variety of similar commodities. Various amounts of plunder, including fish, hides and hemp, were resold ashore: Lawrence Hardinge of Wareham, for example, bought 100 Newfoundland fish at Lulworth, which the local jury claimed were pirate goods.[22]

A report made by the serjeant of the admiralty concerning the 'chiefe Boatemen, lodgers, goers abourde, carriers, buyers and vittellers' of the pirates, corroborated and elaborated the evidence collected by the juries.[23] While confirming widespread contact between Callice and his associates and the inhabitants of Lulworth and neighbouring communities, the serjeant's report gave some insight into the informal social and economic infrastructure on which trafficking with pirates depended. It identified 32 men who went aboard the pirate ship: 19 were described as the chief buyers and 11 were listed as victuallers. The lists included 21 boatmen and six carriers who were responsible for the transportation of the pirates' plunder. In addition 12 inhabitants of Lulworth and Weymouth, including one woman, were identified as the chief lodgers of the pirates.

According to the serjeant's accompanying notes, Francis Rogers of Lulworth was the 'principall buyer and victuler' of the pirates, though he appears to have been acting on behalf of, or in association with his brother, Sir Richard Rogers, and several other kinsmen.[24] The visitors to the pirates and one of the leading purchasers of their goods included Robert Coker, the steward for Sir Richard Rogers, and several of his servants or tenants. A group of the latter carried various quantities of wine and fish, in the night time, to the house of their landlord from Francis Rogers. When one of the pirates' ships was driven ashore at Meyhope by bad weather and forsaken by the company, Sir Richard Rogers reportedly came to the rescue. Arriving early in the morning, Rogers set his mark to the main mast as a warning that no one else should meddle with the vessel, which was recovered and restored to the pirates in exchange for a ton of wine and a chest of sugar. Although pirates and their supporters tended to have distinct, if interrelated, functions, members of the Rogers family network were directly engaged in piracy. During August 1577 Francis Rogers sent out a small vessel of five tons, manned with twelve men and armed with ten muskets, which robbed a ship off Alderney.[25]

Conditions in and around Lulworth illustrate the importance of shore-based support for the maintenance of piracy. The relations between pirates and their supporters served varied purposes. In many parts of the West Country, moreover, the participation of local landowners encouraged and validated the support for pirates among the wider community. While pirate companies were provided with

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22 Ibid.

23 TNA, SP 12/113/24; HCA 1/40, ff. 31–3.

24 TNA, SP 12/113/ 24 & 25.

25 TNA, SP 12/113/24.

hospitality, aid and entertainment, they were able to dispose of their plunder unhindered by local officials. This assistance included protection: at no time during their stay in the region was any serious attempt made to apprehend Callice, his consorts or their companions. For many local dealers, such as victuallers and ale-sellers, piracy was a small-scale commercial adventure which at times appeared to adopt the characteristics of the coasting trade. On several occasions, indeed, Walter Leverton, the customs official in Lulworth, attempted unsuccessfully to levy duties on pirates' goods. After reporting the landing of a cargoe of fish by the pirate George Pinfolde, on which customs were not paid, Sir Richard Rogers 'willed him [Leverton] to go and demaund the same of the Pirate, which he so did, but could not geat any thinge'.[26] Indeed the traffic in stolen commodities depended on the non-payment of duties for its appeal to potential dealers.

The importance of small, strategically located coastal communities in the promotion and commercialisation of piracy is strikingly demonstrated by the emergence of south Wales as a secure haven for pirates during the 1570s. Although the region lacked a tradition of maritime depredation to compare with south-west England, pirate groups were widely welcomed and supported during these years, leading to the establishment of a flourishing business in the trade and exchange of plunder for provisions, under the patronage of the Herbert family. The career of John Callice, a local man from Tintern in Monmouthshire, affirms the importance of these relations for the growth of organised piracy, revealing the limitations of the Elizabethan regime in the face of widespread community participation.

Callice gained notoriety during the decade following his seizure of the *Grace of God* in 1574, when he was employed in the service of Sir John Berkeley. He later claimed that his early voyages were legitimate ventures authorised by a commission from La Rochelle. But his disorderly activities in the Channel, including the spoil of a Spanish vessel off the Scilly Isles, led the privy council to issue a warrant for his arrest in January 1576. Callice was captured in the Isle of Wight during 1577; despite complaints of his piracy, however, he was pardoned.[27] The following year he served on Sir Humphrey Gilbert's ill-fated expedition to North America, which collapsed amidst confusion off Ireland and piracy along the coast of Spain. Thereafter he was involved in the plunder of shipping in the Channel and beyond. Though he died in obscure circumstances shortly after the outbreak of the Anglo-Spanish war, Callice's later career illuminates the way in which the activities of locally based pirates merged with the development of Atlantic depredation. Early in 1586 he sailed into the harbour at Cork, with a prize reportedly carrying 12 barrels of gold from Barbary. It was a brief visit: 'he is gone

[26] Ibid.

[27] *APC 1571–75*, p. 230; *APC 1575–77*, pp. 73–4; Ewen, *The Golden Chalice*, pp. 11–12; TNA, SP 12/122/2.

back again to sea', Sir Francis Walsingham, the queen's secretary, was informed, 'whither God knoweth'.[28]

Although Callice ranged widely in search of potential spoil, he regularly returned to south Wales to dispose of plundered cargoes. The inhabitants of the small ports and havens of the region also provided him with sanctuary and the opportunity to renew acquaintances with friends and associates. This network of support enabled Callice to visit the area with little danger of arrest. The attempt by John Crofts to apprehend Callice during December 1576, in accordance with a commission from the crown, was frustrated by local passivity, indifference and even hostility. Evidently Crofts chased Callice across south-west England and Wales, until the pirate reached Penarth, near Cardiff, with two prizes. But Crofts was unable to procure support either from officials in Bristol or from admiralty officers in south Wales. Crofts later reported that among the latter, William Morgan, the deputy vice-admiral, 'did say that he did not care for the comission nor me'.[29] Local magistrates were also unwilling to come to his assistance, claiming that they would require 40 men, who were unavailable, to take the pirates, though Crofts insisted that Callice might have been arrested with half that number. Nor were the inhabitants of Cardiff willing to aid in the apprehension of the pirates, 'althoughe in speche every sorte of people colde saie, it were well donne to take them'.[30] Instead, Crofts complained, the 'Townesmen of Cardiffe, and sondry gentlemen thereaboutes did comonly buy and receave diverse of the goodes & spoiles brought thither by Callis & his accomplices'.[31] While Crofts fruitlessly sought local support, one of the prizes was moved close to Newport, where the pirates were supplied with victuals by the vice-admiral's men, who conveyed goods ashore in small boats by day and night.[32]

Crofts compiled a detailed account of the disposal of the pirates' plunder. His evidence indicates that stolen merchandise, in this case salt and fish, passed through interlocking local markets and transactions, leading to their widespread dispersal using commercial routes along the river Severn. This pattern of distribution effectively camouflaged the provenance of such goods, making their recovery very difficult. Among the 'common buyers of salte & fishe' from Callice at Penarth were a group of 20 men, most of whom came from Cardiff.[33] They included traders, craftsmen, victuallers and officials. Prominent local merchants, such as William Herbert of the High Street in Cardiff, or their servants, were heavily engaged in the business, and in the subsequent resale of the salt and fish. These later transactions

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[28] *CSPI 1586–88*, pp. 10–11, 27. He may have been killed in Barbary: Ewen, *The Golden Chalice*, p. 17.

[29] TNA, SP 12/110/3; *CSPD 1547–80*, pp. 432, 543.

[30] TNA, SP 12/110/3; Williams, *Tudor Regime*, pp. 246–7.

[31] TNA, SP 12/110/3 & 4; *Cardiff Records*, ed. J.H. Matthews (6 vols, Cardiff, 1898–1911), vol. 1, pp. 349–50.

[32] TNA, SP 12/110/3.

[33] TNA, SP 12/110/4; *APC 1575–77*, p. 209.

involved local men, including representatives of the Herbert family, and buyers from a wider region, who included Nicholas Tailer of Bristol and John Verney of Somerset. Although this petty trafficking was of modest value, in some cases it was comparable to the volume of goods shipped by local merchants. For example, Thomas Stringer of Chepstow acquired 3,000 wet fish; Harry Best of Bristol bought 2,600 fish which he sold to a fish merchant in his home port; and John ap John of Coggan purchased several thousand fish and 5 tons of salt.[34] By these means, therefore, the pirates' spoil was assimilated into customary commercial networks and widely scattered across markets that embraced south Wales, the Severn region and the West Country.

Callice's activities in south Wales demonstrate the inability of the Tudor regime to suppress piracy without community cooperation. Crofts's failure to apprehend the pirate was followed by complaints that Callice was 'lodged & horsed' in Haverfordwest.[35] Officials in London were also concerned that 'the chiefest pyrattes were lett to eskape, and some of the porer sort taken' prisoner.[36] Although the mayor of Haverfordwest subsequently admitted that Callice was 'openly lodged & socoured amongest us', he insisted that he was unaware of his presence in the town.[37] Evidently Callice stayed overnight in an inn kept by Roger Moorcrofte, from whom he purchased a horse. He departed early the following morning, bound for Cardiff, while his accomplices remained in the harbour at St David's with two prizes. The mayor, with the support of a local magistrate who was absent on official business during Callice's visit, insisted that the pirate received little assistance in the town because of recent losses, amounting to £1,000, to piracy. Consequently, they reported, this was 'a cause rather to hate pyrattes then to favour them'.[38]

In an attempt to deny rumours that he favoured pirates, the vice-admiral of Pembrokeshire, Sir John Perrot, arrested six members of the company of Callice and his consorts early in 1577. At the same time he urged the privy council severely to deal with the receivers of the pirates' spoil in Cardiff and Glamorganshire, while advising that one of the queen's ships, preferably a nimble vessel of 100 tons, be despatched to the region. If placed under his direction, Perrot promised 'not (to) leave any Piratt on this syde of the Lands End of England or uppon the coaste of Yreland'.[39]

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[34] TNA, SP 12/110/4; 12/135/106, 153–4, 165; *Cardiff Records*, vol. 1, pp. 353–4.

[35] TNA, SP 12/111/1; *APC 1575–77*, pp. 267–8, 293–4.

[36] TNA, SP 12/111/1; *APC 1575–77*, pp. 127–30, 317–18.

[37] TNA, SP 12/111/15.

[38] TNA, SP 12/111/15 & 16.

[39] Perrot also promised to increase the queen's revenue from customs by £2,000 through preventing the shipment of prohibited and smuggled goods: TNA, SP 12/111/36. On the allegations against Perrot, see H.A. Lloyd, *The Gentry of South-West Wales, 1540–1640* (Cardiff, 1968), pp. 162–4.

Although Perrot presented the men of Cardiff and its neighbouring region as the greatest receivers of the pirates' spoil, he provided evidence of dealings with Callice and his associate, Edward Herbert, a former servant, in south-west Wales. A certificate compiled partly with information provided by Perrot's local rival, Richard Vaughan, identified landowners such as John Wogan of Wiston, admiralty officials, including George Devereux and John Kyfte, and townsmen of Haverfordwest, among a group of nine receivers of wines from Herbert in Milford Haven.[40] Perrot insisted that Kyfte's dealings with the pirate, in which he was personally involved, were designed to discover who visited his ship. But his attempts to investigate Vaughan's allegations provoked hostility and disobedience. Wogan, who reportedly supplied Herbert with cheese, butter and other provisions, refused to appear before either Perrot or the sheriff, whose deputy he reviled: it 'weare well doon', the vice-admiral commented, 'to sett hym by the heeles'.[41] Among the others, two men from Haverfordwest, including Roger Moorcrofte, also failed to appear; one suspect was away from home; and another, when examined by Perrot, would 'not confesse the receipte of any (wines) or that he gave the saide Harberd any victuall'.[42]

While the support for piracy that existed in south Wales was undoubtedly assisted by the local origins of Callice and some of his consorts, fundamentally it was based on mutual self-interest and calculation. In January 1577 the mayor of Haverfordwest complained that he saw a bale of dyestuff, which he bought in Bristol for £20, sold by the pirates in Cardiff for 20 nobles, suggesting a discount on its market value of two-thirds.[43] A varied body of evidence indicates that pirates were rarely in a strong position to bargain over the disposal of plunder, much of which in any case was often exchanged for victuals. In a bid to secure a pardon, following his capture during 1577, Callice provided Walsingham with evidence of his suppliers and dealers which suggests that it was the latter who made the most profit from the business. This included the disposal of more than 150 chests of sugar out of a Portuguese prize, more than half of which were acquired by George Herbert, at a rate of £4 per chest, paid for in provisions. More than 70 sacks of Spanish wool, out of another plundered vessel, were sold in a similar manner to a group of ten buyers, who included local men in south Wales and at least one from Ross in Ireland. Although the wool was sold at a rate of £3 per sack, Callice insisted that its real value was more than double this amount. Among a list of outstanding debts claimed by the pirate, including £100 owed by Nicholas Herbert

40 TNA, SP 12/111/37; 12/ 75/19; 12/135/161, 165; Lloyd, *Gentry*, p. 165.

41 TNA, SP 12/111/37.

42 Ibid..

43 TNA, SP 12/111/15. For cheap pirate goods, see also *A Calendar of Material Relating to Ireland from the High Court of Admiralty Examinations 1536–1641*, ed. J.C. Appleby (Dublin, 1992), pp. 39–40. For examples of local connivance: TNA, SP 12/135/153–5, 167–8. The value of a noble was 6s. 8d.

on the promise of obtaining a pardon, Callice noted a cable and anchor from a French ship, worth £20, but, he added, 'my pryce was' £7.[44]

Across south Wales, pirates appeared to operate as seaborne pedlars, hawking a variety of plundered commodities from port to port, at knock-down prices. Several of the leading dealers were examined by commissioners at Hampton Court in January 1578, when they gave an abbreviated account of their relations with the pirates. John ap John confessed 'that he hath kept company with pirates in the Town of Cardif', adding, 'as generally all men thear did'.[45] Robert Adams admitted that he was a partner with one of Callice's occasional associates, the Portuguese renegade Simon Fernandez, in a small bark. Others, including William Herbert, acknowledged that they had victualled Callice, but claimed to have restored some of the goods they received from him to their original owners.

Further evidence for the range of the pirates' activities along the coast was provided by the deputies to the commissioners for piracy in Pembrokeshire. In June 1577 Robert Hicks arrived in Milford Haven with two vessels laden with wheat, rye and salt, out of which 'was laden many barkes and pynyses of the costes of England and Yrelonde'.[46] Among those presented by the jury for buying goods off Hicks were local men from Haverfordwest, Camarthen and Laugharne, as well as Robert Bennett of Appledore near Barnstaple, who acquired a pinnace laden with 10 tons of wheat, and Roger ap Richard from Aberystwyth, who received 75 barrels of rye and 38 barrels of salt. In addition a 'number of poore men of the said countie of Pembrok bought and hadd geaven them by the said Hyxte' various amounts of salt, wheat and rye.[47]

Within a region loosely bounded by south Wales, south-west England and southern Ireland, piracy was sustained by widespread patterns of commerce and exchange which were organised and business-like in character. But piratical activity during the 1560s and 1570s was an endemic problem which spread into regions where relations with land-based dealers were less structured in form. Such activity occurred along the north-east coast of England, where pirates of various backgrounds preyed particularly on vulnerable fishing vessels in the North Sea. Small islands off the coast, including Holy Island and the Farne Islands, were used as occasional bases and outposts for localised raiding which was adapted to the needs of small and struggling seafaring communities.[48] At times, piracy appeared to be more like foraging expeditions by small bands of ill-equipped, wandering ruffians and vagabonds, than the purposeful venturing that prevailed in south-west England or Wales.

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[44] TNA, SP 15/25/60, I–II; E.R. Williams, *Some Studies of Elizabethan Wales* (Newtown, 1924), p. 116.

[45] TNA, SP 12/122/2; *APC 1581–82*, pp. 143–4, 203; *Cardiff Records*, vol. 1, p. 355.

[46] TNA, SP 12/122/21, I; *Calendar of Material Relating to Ireland*, p. 43.

[47] TNA, SP 12/122/21, I; Lloyd, *Gentry*, pp. 164–5.

[48] *CSPD 1601–1603 & Addenda 1547–65*, pp. 557–8, 562, 569.

Evidence collected by the deputies for the commissioners for piracy in Yorkshire during 1577 indicates that some of this activity was locally based, and organised as a family enterprise under the cover of legitimate commerce. The deputies in Scarborough reported that during the early 1570s the *John*, of 70 tons, was set forth by Richard Peacock, master, his father, Gregory Peacock, and Steven Beacon, a gentleman of London, 'with a pretence for a viage in the traid of merchandise to Spaine, with ordinaunce conveniant for her owne defence'; once at sea, however, the ship changed course, and seized a Flemish fishing vessel in the North Sea.[49] Bad weather forced the pirates into Tynemouth haven, where the prize was seized by local officials, and some of Peacock's men were imprisoned. When Peacock returned to Scarborough, he captured another Flemish vessel, laden with herrings, which appeared to have been taken by a group of rovers led by William Frye. Peacock sailed off to the river Humber with the vessel, followed on land by Frye. The vessel was recovered by agreement, though it was seized by the vice-admiral on its return to Scarborough.

Officials in Scarborough also reported the arrival of suspicious vessels and commodities of dubious provenance during the 1570s. They included a small boat of 5 or 6 tons, with a company of about twenty men, under the command of George Phipson, laden with a chest of linen cloth. Like many pirate captains, Phipson experienced a chequered career. In December 1573 he was imprisoned in Norwich castle on suspicion of piracy. By 1576 he was back at sea, cruising off south-west England, and disposing of commodities in Wales and Cornwall. Despite another brief period of imprisonment, the following year he was raiding along the east coast, using a safe base near the mouth of the Humber.[50] On his arrival in Scarborough he was arrested by the bailiffs and sent to the lord president of the Council in the North at York. When he returned from York, evidently he was too unwell to put to sea with the rest of his company who departed in search of new prey. They soon returned 'with broken heades & faces' as a result of an unsuccessful attempt to spoil a French ship off Flamborough Head.[51] The plunder from the voyage amounted to an anchor belonging to the French vessel, which was stored in a cellar in the town. Although Phipson's men were arrested and despatched to York, the deputies were unable to provide any information regarding their subsequent fate.

Phipson recovered and continued to visit the coast. But his activities suggest that small-scale robbery at sea could provoke different responses among the inhabitants of remote or isolated coastal communities. The deputies for Filey reported that he arrived 'in warlicke maner with a small bark' during June 1576, when Reynold Farley and his wife bought barrels of soap and pewter from him.[52] By August he

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[49] TNA, SP 15/25/54, I; 12/135/16–17.

[50] *APC 1571–75*, p. 160; *APC 1575–77*, pp. 102, 377; *APC 1577–78*, pp. 36–7, 156, 260.

[51] TNA, SP 15/25/54, I.

[52] TNA, SP 15/25/54, I; 12/135/15.

was at Whitby, where a London grocer, accompanied by several local men, went aboard to recover goods which he had taken out of a vessel from Hull. Shortly after, he was seeking supplies of water further along the coast. At the small haven of Skinningrove he sent a boat ashore 'for fresh watter which was denyed him, whereupon the bote returned, & broughte a great force of men & shote & offered by force to land, but was repulsed'.[53] Phipson and his men thereupon seized a local boat which they used to haggle for water. The pirates seized several prizes during the course of their raid along the coast, but some were of little value and possibly abandoned. Thus the deputies for Holderness certified that a small French vessel of 20 tons, laden with 25 barrels of herrings, had been taken by Phipson and 'by him let waye in Humber', where it was recovered by local watermen; another little boat of 4 tons was also left in the river, and subsequently driven ashore at Kilnsey.[54]

Such small-scale scavenging at sea reveals the haphazard nature of piratical activity during these years. It may have been especially characteristic of localised piracy along the east coast, north of the Wash or the Humber, where pirates were reduced to preying on small fishing or trading vessels of limited value. Even under these conditions, however, pirate plunder was widely dispersed in commercialised or subsistence exchanges. As in south-west England or south Wales, stolen commodities passed through a shadowy, but extensive, network of distribution and redistribution, often in ambiguous circumstances, employing established trade routes along the Humber and its tributaries. According to evidence collected for the piracy commissioners, various quantities of tar, rye and other commodities, suspected to be pirates' goods, were laded aboard keel-boats at Scarborough or Grimsby, transported along the coast and up the Humber to markets at Snaith and elsewhere, in transactions involving buyers from York, Wakefield and Doncaster.[55]

The commissions for piracy unearthed an impressive body of evidence which underlines the extent and complexity of the problem of receiving and dealing in pirates plunder. In widely scattered and remote regions piracy was supported by a large number of people, at times possibly inadvertently or unknowingly, reflecting both its highly localised nature and the varying opportunities presented by local and regional circumstances. The evidence presented here suggests that many of those who openly dealt with pirates were small traders, shopkeepers, alehouse-keepers, artisans and servants or tenants acting on behalf of local landowners. While lesser gentry may have visited pirate ships for hospitality and 'merry company', by the 1570s it was unusual for prominent members of landed society

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[53] TNA, SP 15/25/54, I. Phipson was also seeking supplies along the coast of Northumberland: TNA, SP 12/135/28–33.

[54] TNA, SP 15/25/54, I; SP 12/135/20.

[55] TNA, SP 15/25/54, I.

publicly to be associated with pirates.[56] Henry Howard, the son of Lord Howard of Bindon, appears to have attracted opprobrium for keeping 'ill company' with pirates and sailors at Lulworth.[57] Yet public disapproval of such behaviour was muted; in this case it was also a product of Howard's wayward and disorderly behaviour, including his 'unseemly conduct towards his father'.[58]

At times the trade in pirate booty which grew out of these relations deliberately confused the distinction between commerce and depredation. Commercial dealers in pirate goods, such as Richard Wogan of Pembrokeshire, operated or masqueraded as legitimate traders. During the 1590s Wogan appears to have been part of a network of dealers in the region, who used Caldey Island, near the small port of Tenby, as a provisioning centre. According to local report, the island was very fertile, but its inhabitants were unwilling to keep oxen for ploughing, 'fearing the purveyors of the pirates, … who often make their provisions there by their own commission and most commonly to the good contentment of the inhabitants when conscionable thieves arrive there'.[59] In June 1597, Wogan was arrested by officials in Chester, following the receipt of information that a lading of wines which he sold in the port belonged to John Ollyver and other merchants of Bristol. The wines were part of a lading aboard a French vessel which was spoiled by pirates near Caldey Island. Evidently the plunder was taken to Milford Haven, purchased by Wogan and transported thence to Chester, allegedly by way of Bristol, under the guise of legitimate commerce. According to the mayor of Bristol, however, there was no evidence in the customs house to support Wogan's claims to legitimacy: instead, local investigation exposed him as a 'common dealer in the buyinge of such goodes when they are brought into those partes'.[60]

In some areas the advantages of dealing with pirates far outweighed the disadvantages, despite the dangers of detection or the prospect of punishment. The availability of cheap merchandise, the product of spoil at sea, might override local notions of legality and wrongdoing, as indicated by the situation in Cardiff during the 1570s. The outbreak of war with Spain during 1585 exacerbated the problem as maritime adventurers of varying legality, including many involved in disorderly privateering, established a flourishing trade in the disposal of booty within a region that ranged across south-west England and Ireland. It was against this background,

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[56] Ewen, 'Organized Piracy', 39–40. For a similar situation in Cornwall, see Rowse, *Tudor Cornwall*, pp. 347–8, 390–92; Fury, *Tides in the Affairs of Men*, pp. 23–4, 90; TNA, HCA 1/40, f. 26v.

[57] *CSPD 1581–90*, p. 14. Howard was called to appear before the privy council on several occasions on matters concerning his debts and hard use of his wife: *APC 1575–77*, pp. 344, 350–51; *APC 1580–81*, pp. 205, 234, 251, 293. But Howard was also involved in the capture of two pirates: Ewen, 'Pirates of Purbeck', 101.

[58] *CSPD 1581–90*, p. 14.

[59] G. Owen, *The Description of Pembrokeshire*, ed. D. Miles (Llandysul, 1994), p. 112; Williams, *Elizabethan Wales*, pp. 105–107.

[60] Cheshire and Chester Record Office, ZML/1, ff. 140–41.

faced with the spread of organised English piracy to southern Ireland during the early seventeenth century, that the lord admiral, the earl of Nottingham, argued in favour of the death penalty for the receivers of pirate plunder.[61]

Pirate Lives: Criminal Outcasts or Entrepreneurs?

These scenes from the 1570s onwards, illuminating the relationship between pirates and communities, could be reinforced by a diverse body of anecdotal evidence for most of the period covered by this chapter.[62] Piracy was a crime which was supported, or at least tolerated, by the inhabitants of widely scattered coastal settlements and hinterlands. Although individual pathways into piracy varied, many recruits came from communities in such regions, and they maintained close links with family and friends during episodic careers of plunder at sea. The importance of these relationships is illustrated by evidence presented to the commissioners for piracy in Suffolk concerning the activities of Peter Lambert, a pirate of Aldeburgh, during the later 1570s. Lambert's wife Margerie and a neighbour, Alice Bevershawe, received various parcels of plundered commodities, including cloth, from him; following his capture and imprisonment, the commissioners were informed that 'these two women delivered in a file to the said … Lambert by meanes whereof he escaped prison, and was afterwards kept in a brome stacke iiii daies by one George Bunney'.[63] Such complicity may have been widespread. In 1578 John Tregose of Saltash was reported to have provided lodging for the wives of three pirate captains, including Hicks, for which he received several hogsheads of wine. Walter Hore, a leading supporter of the pirates, was the brother-in-law of Captain Frye, from whom he purchased cloth valued at £10.[64] The lives of such men, though difficult to recover in detail, suggest that piratical enterprise was sanctioned by shared attitudes to robbery at sea. From this perspective pirates were rarely identified as criminal outcasts, but more as small-scale adventurers or entrepreneurs who were engaged in the illicit redistribution of wealth. At times, they may even have been seen as benevolent outlaws as a result of the dispersal of gifts among the local poor, and the disposal of stolen goods at cheap rates of exchange, which were sometimes accompanied by seaboard hospitality. On one of several visits to his home port of Saltash during the 1570s, Hicks presented a local man with the gift of a hogshead of wine. Cuthbert Marshal later confessed that he 'was abourd the Pirates iii times & made merie with them and had two Busshells of Rie and an

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61 *CSPD 1603–10*, p. 568.

62 For example, *CSPI 1509–73*, pp. 96, 100; *CSPD 1566–79*, pp. 535–6, 541; *APC 1575–77*, pp. 366–7, 373; *Calendar of Material Relating to Ireland*, pp. 7–8, 39–42, 48–9, 50–52.

63 TNA, SP 12/135/74–5.

64 TNA, SP 12/135/89.

emptie Caske'.[65] At the same time piracy was a deeply ambiguous enterprise; its essential hybridity crossed or confused boundaries of legality. International crises or conflicts effectively legitimised the activities of many rovers, undermining the legal distinction between piracy and lawfully commissioned privateering. In such circumstances piracy might become a popular, if not patriotic, crime, especially when the victims were French or Spanish.[66]

As an economic activity that was inherently parasitic in character piracy resembled a lottery, with its own winners and losers, which provoked mixed responses. The victims of piracy furnish sombre evidence of the casual brutality, torture and murder that were perpetrated at sea, increasingly under the influence of inflammatory religious and nationalistic rivalries. Consequently it was accompanied by widespread complaint, and signs of occasional disapproval or uneasy consciences. According to Flemish complaints of 1561, for example, while the pirate captain William Johnson was rigging his vessel in Boston, several prisoners from a previous voyage heard 'the people say that he was going to sea to rob, and said, "Ah Jonson, Jonson, what mean you to go rob and spoil on the sea", having no need so to do at all?'[67] Although the appeal to conscience failed, it appears to have reflected local disapprobation which may have been due to the death of a Flemish master in the port, as a result of wounds sustained during his capture at sea by Johnson. Such disapproval may have been voiced by family members, but with a similar lack of success. Thus in October 1582 John Atkinson, a merchant-taylor of London, met his brother, Clinton Atkinson, a notorious pirate, at Swanage in Dorset, to persuade him 'to forsake that trade wherewith he was infamed'.[68] Although the pirate warned his brother not to meddle in his affairs, he provided him with enough material to make a jerkin and a pair of breeches, because John was sick and short of clothing.

Yet moral condemnation of piracy was rare, or at least rarely recorded, despite undercurrents of concern at its damaging consequences. Reports that two pirate ships were off Holyhead 'in verey suspycious manner' during 1581 provoked local alarm at the threat to the security of the sea passage to Ireland.[69] One of the ships, a vessel of 40 tons, manned with at least 40 men, plundered a local vessel returning from Dublin. A passenger, William Snelle of Coventry, was robbed of goods valued at £18. The account he and another traveller provided of the attack suggests that the pirates were men of local origin who harboured a grudge against some of the inhabitants of Chester. Evidently several members of the company had their faces covered; moreover they claimed that Snelle and the 'rest deserved no favour for that they did not stricke up or yeld at the firste & said also that Chester

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65 TNA, SP 12/135/89–90; HCA 1/40, ff. 56–9.

66 Or even an honourable crime: *Sir Henry Mainwaring*, vol. 2, p. 11.

67 *CSPF 1561–62*, pp. 133–4, 137, 191–2.

68 TNA, HCA 1/40, f. 155; Ewen, 'Pirates of Purbeck', 88–9, 93.

69 Cheshire and Chester Record Office, ML/5, f. 30.

men had delt hardly with them before & therefore (were) not to be favored'.[70] The antagonism towards the men of Chester suggests that hostility between mariners and merchants may have been used to justify piracy, particularly when it was focused on domestic targets, though little evidence survives for its public expression during this period. Indeed, a growing awareness of the link between piracy and seafaring unemployment was partly responsible for limiting moral condemnation, while providing an opportunity for the redemption of reformed pirates.[71] At times such cautious, if not occasionally neutral, responses played into the hands of resourceful pirates, contributing to conflicting views regarding the criminal definition or classification of piracy.

Condemnation of piracy was also qualified by considerations of profit and wealth. As Sir Walter Raleigh reportedly commented in the aftermath of his disastrous expedition to Guiana which led to his execution in 1618, 'none were called pirates for millions'.[72] While Raleigh may have been speculating on his own misfortune in failing to attack the Spanish silver fleet, which might have salvaged the voyage and saved his life, undoubtedly his remarks were informed by the welcome Drake received on returning from his 'Famous Voyage' around the world, from 1577 to 1580, with a rich haul of Spanish plunder. Despite Spanish outrage, Queen Elizabeth knighted Drake aboard the *Golden Hind*: in effect, the pirate had become a national hero and the focus for widespread patriotic celebration.[73]

Drake's career as a maritime predator was unrepresentative of the pirates who infested the waters of the British Isles in such numbers during this period, for whom piracy represented more a strategy for survival than a source of self-enrichment. The piratical venturing of John Piers during the 1570s and early 1580s may be more typical of the experiences of pirates who haunted local seas, despite its unusual relationship with the alleged witchcraft of his mother Anne, who was reputedly responsible for the disposal of the plunder. Like other pirates operating during these years, Piers ranged across a region that spanned the Channel, plundering small and vulnerable vessels close to shore, and disposing of the booty at various locations, including his home port of Padstow. By 1581 he was known to the privy council as a notorious pirate; however, local investigation of Piers appeared to confuse his piracy with the behaviour of his mother, raising wider issues regarding gender, disorder and crime.[74]

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[70] Ibid., f. 31.

[71] Fury, *Tides in the Affairs of Men*, pp. 22–6. Richard Hakluyt argued in 1584 that the employment of mariners on longer voyages to North America would prevent them from falling into piracy: Richard Hakluyt, *Discourse of Western Planting*, ed. D.B. Quinn and A.M. Quinn (Hakluyt Society, extra series, 45, Cambridge, 1993), p. 120.

[72] *CSPD 1611–18*, p. 577.

[73] Kelsey, *Drake*, pp. 215–24, 396–9; K.R. Andrews, *Drake's Voyages: A Re-assessment of their Place in Elizabethan Maritime Expansion* (London, 1967), pp. 81–2.

[74] *APC 1581–82*, pp. 227–9.

Although twelve witnesses from among 'the better sorte & of the most credite of the towne of Padstowe', including Robert Archer the vicar, testified that Anne Piers was not a witch, she was 'acounted a woman of loose liefe'.[75] Her reputation and unconventional behaviour were closely connected with the assistance she provided for her pirate son, despite the disapproval of her husband, who claimed it was 'well knowen that he had renounced his said sonne for his lewdness'.[76] When questioned about her relations with the pirate in October 1581, she was forced to admit receiving a rug out of his ship at a prearranged rendezvous, at midnight, by the waterside in Padstow. Though she was accompanied by two other women, her appearance at such an hour, which was noted by local inhabitants, may have reinforced community disapproval of her disorderly and loose life, rather than her son's. According to a local witness, the rug, which he helped to carry into a local barn, was intended for a gentlewoman, possibly as a gift. Furthermore, Archer deposed that the pirate's mother received plate and silver buttons, some of which she sold to a silversmith from Plymouth, 'at Bodmyn at the tyme of the laste Sessions', before being arrested by 'one of the undershirefes men'.[77] Anne Piers was not the only recipient of her son's booty. Archer also asserted that while the pirate was at Padstow he 'gave cloth called Callycoe to sundry and amonge others to the vicar of Meryn', who accompanied Piers's father aboard ship.[78] In addition, the wife of a local trader admitted that her husband received various items from Piers at Lundy Island, a favoured haunt for pirates, during his return voyage from Bristol, including a small cask of soap, two calivers and a parrot.

Despite claims of his mother that 'her sonne had great store of money', the evidence suggests that Piers made little profit from piracy.[79] Like many others, he was engaged in small-scale plunder which, even at its most lucrative, produced modest returns that appeared to belie the risks involved. This kind of maritime depredation may be comparable with the activities of gangs of thieves and robbers ashore. In both cases petty criminality depended on wider support for its organisation and effectiveness, which went some way towards reducing the risks involved. Nevertheless at sea pirates like Piers, or Phipson along the east coast, were sometimes reduced to a hand-to-mouth existence. Otis Towne, one of Piers' company, who claimed that he was captured and detained against his will because 'he wanted sailers', reported that during a voyage of two weeks 'they tooke nothinge but victualles from any man', except possibly for a small amount of money; moreover, 'whiles he was with Piers he sawe nothing in the bark savinge rugges & like Irish wares'.[80] When he returned to Padstow, indeed, Piers

[75] TNA, SP 12/150/96.
[76] TNA, SP 12/150/94.
[77] Ibid.
[78] Ibid.
[79] Ibid.
[80] Ibid.

was unable to repay a debt of £7 to a local man who visited his ship accompanied by his estranged father.

Shortly after the arrest of Anne Piers at Bodmin, her son was captured with 15 of his company in Studland Bay. Although the privy council ordered local officials to execute the pirates, hanging them from gibbets around the Bay, Piers escaped from custody in Dorchester gaol through the alleged corruption of the keeper. But he was soon recaptured and executed. Characteristically, suspected dealers who received goods from Piers in the Cinque Ports claimed local privilege and refused to appear before a commission of investigation.[81] No further evidence appears to survive for the subsequent fate of Anne Piers or the rest of her family.

The career of Piers, whose piracy indirectly involved his mother and sister, who also confessed to going aboard his ship on several occasions, suggests that in certain circumstances pirates and their supporters represented a disorderly and divisive force in the community. Families who were known to be involved in piracy may have provoked local hostility, despite benefiting from some degree of tolerance. The activities of the Peacock family in Scarborough lend some support to the suggestion. As noted above, Richard Peacock was involved in piracy during the 1570s, in association with his father and other family members, including Matthew Peacock who was fined £40 for dealing with pirates in November 1578. Peacock's career as a pirate was brought to a brutal end during 1581, however, when he was murdered on the beach at Scarborough by a gang of local men.[82]

* * *

Piracy survived as a serious problem during the late sixteenth and early seventeenth centuries, often in ambiguous circumstances, with the connivance of local officials and through the use of subterfuge by pirate captains and their supporters on land. During the late 1590s, for example, William Longcastle sought safety ashore in Devon with the aid of John Smarte of Plymouth. The latter informed a kinsman, Roger Hurrell, a gentleman of Woodley, that Longcastle 'was a frend of his and indebted to one in Plimouth so as he durst not be seene there, and so intreated … (him) that the said Longcastle might lye at his house until he had taken order with his creditor'.[83] Longcastle stayed for six months. Under the name of Captain Davis, he came and went, keeping company with neighbours and parishioners, as well as attending church and going hunting. Hurrell later denied any knowledge that Longcastle was a pirate, though he was aware of his subsequent capture and execution in Cornwall. While he denied receiving any money for providing accommodation for Longcastle, or of owing him £100, he admitted that he received a loan of more than £60 from Smarte. In June 1610, Hurrell was examined in the high court of admiralty on allegations of harbouring a pirate. Faced with

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81 *APC 1581–82*, pp. 232–3, 272, 282, 355.

82 *APC 1580–81*, p. 362; *APC 1581–82*, pp. 17–18, 104, 109–10.

83 TNA, HCA 1/47, ff. 128v–9v.

suspicious, but uncorroborated, evidence, however, there was little that the court could do to proceed with the case.

The execution of pirates such as Longcastle or Piers, who were left to hang in chains by the sea coast, was intended as a salutary warning to others. At the same time this public display of the dead was freighted with symbolic significance. The abandonment of the corpses of pirates in unhallowed territory, in a borderland between sea and land, powerfully suggested that they had been expunged from the community. At times local and central agencies responded with vigour and determination to combat the menace of piracy. During 1577, 15 pirates were executed in Hull, some of them possibly from Phipson's wandering company.[84] Without the execution of justice, as Judge Davis informed the assizes at York in 1620, 'the land would be full of theeves, the sea full of pirates'.[85] In reality, at various times during the later fifteenth and sixteenth centuries the seas around the British Isles were infested by pirates who were supported and sustained by land-based partners and assistants, whose attitudes towards piracy manifested a deeper ambiguity in the response of communities and the regime to the so-called 'enemies of all mankind'.

[84] E. Gillett and K.A. MacMahon, *A History of Hull* (Oxford, 1980), p. 152.

[85] J.S. Cockburn, *A History of English Assizes 1558–1714* (Cambridge, 1972), p. 310. At the same time the assizes at Chelmsford heard evidence that many alehouses which had been suppressed by magistrates had been licensed as inns and continued 'to harbour thieves and pirates': *Calendar of Assize Records: Essex Indictments, James I*, ed. J.S. Cockburn (London, 1982), p. 241.

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